密勒氏評論報

THE CHINA WEEKLY REVIEW

Formerly Millard's Review

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THE MOVE TO ESTABLISH AN AMERICAN NEWSPAPER!

A MOVEMENT is now rapidly taking definite form looking toward the establishment of an American owned and edited newspaper in Shanghai, the promoters of the enterprise being representative of practically all American interests in this part of the Far East. Although the official announcement of the promoters of the new American paper is not yet ready for publication, the following paragraph from the prospectus serves to give some idea of the purpose which they have in mind:

"Shanghai has an American school, American clubs, an American church, American shipping, banking, insurance and mercantile firms and is the only important American community in the Far East without a daily newspaper under American ownership and management. In an international community such as Shanghai a newspaper which will present American opinion and point of view on the many local and international problems which arise is of as much importance to the American community and to American interests in general as schools, clubs, churches and business institutions. It is important not only to Americans but to Chinese and nationals of other countries who want to know American opinion. Without an organ to lead, express and interpret this opinion, the American community must remain inarticulate and play a minor or negligible part in the affairs of Shanghai, the largest and most important city in Asia. In view of the readjustments which are being made in China, this is a situation fraught with danger. Fifteen years ago when American interests in Shanghai were but a fraction of what they are today and the establishment of American schools, churches and clubs were undreamed of, the need for an American newspaper was so urgent that one was successfully promoted. The need today is much more important than it was fifteen years ago and it will be of increasing importance in the future. It is proposed, in order to meet the need which exists, that the paper shall follow the best traditions of American journalism, avoid sensationalism either in news or editorial expression and work for a better understanding between Chinese and foreign nationals residing in China. It is believed that such a paper will be able, by a tolerant and constructive editorial policy, to promote not only the interests of Americans but of all other nationals in the Far East."

THE SINO JAPANESE ATTEMPT TO "GET-TOGETHER"

A DELEGATION of Chinese business men numbering about fifty and headed by Mr. Yu Ya-ching, chairman of the Chinese General Chamber of Commerce of Shanghai, has been visiting in Japan. As stated previously in these columns, this group of Chinese merchants was entertained in Japan by the Japanese Government, the expense for railway travel, steamship fare and hotel bills being defrayed from the Japanese portion of the China Boxer Indemnity and as such constitutes one phase of Japan's present "drive" to cultivate the friendship of China. The Chinese business men went to Japan for the manifest purpose of attending an electrical exposition in Osaka, but from reports which have been reaching China since the departure of the delegation, it would appear that matters of more general interest than electrical generators and power stations received attention. The *Shanghai Mercury*, generally recognized as a Japanese organ, published a report in its issue of June 10 which read in part as follows:

> "According to a telegram received this morning from Tokio, a group of prominent Japanese business-men, including Viscount E. Shibusawa, consulted with the representatives of the Chinese business men tourists now in Tokio *with a view to forming a joint economical organ by both nations, apart from any political standpoint.*
>
> "However, when it was suggested by the Chinese that the so-called 21 Demands be withdrawn by the Japanese Government before doing so, negotiations came to a standstill."

THIS little reminder of the Twenty-one Demands of 1915, brought up by the Chinese delegation, seems, so far as the news reports have indicated, the only blemish on an otherwise perfect vacation. The daily reports of the Japanese *Toho New Agency* sent to the Chinese and foreign press in China regarding the activities of the Chinese delegation, have been filled with paragraphs fairly dripping with honeyed words of friendship. At a banquet tendered to the Shanghai business men by Japanese business men and officials at Kobe, Mr. Yu Ya ching was quoted in a dispatch as declaring that China thougnt so much of Japan that the Chinese contributed to the earthquake relief fund a few years ago even when the Chinese were boycotting Japanese goods for some reason or other. On June 2 Mr. Yu made a speech over the Tokyo broadcasting station in which he said (according to the *Toho News Agency* reports) that "China and Japan are brotherly nations, for since the Tang Dynasty, the two countries have been exchanging envoys and the feeling of the two nations have been very satisfactory. Since our arrival in Japan we have carefully observed the dress, customs and manners, food and drink, living, music and dancing of the Japanese people and we have found these things bear such a marked resemblance to those of our ancient times that we feel as if we were the people of the Tang Dynasty." However, Mr. Yu remarked in the closing part of his address that in the past ten years the feelings of the two countries had been seriously wounded owing to misunderstanding, but in more recent times the peoples of the two countries have become awakened and are now realizing the *necessity of cooperation in view of the trend of international affairs.* The same report containing the above also told of a sort of insignia or badge which the members of the Chinese delegation were wearing which consisted of the flags of China and Japan with two clasped hands between the flags, these being the "symbols of cooperation, friendly relations, and co-existence between the two countries." Then the news report ended with the interesting question, "Is this not the path to which we should all keep? Not only for the happiness and welfare of the people of the two countries, but also for the sake of the peace of the Orient?"

THEN in addition to the "friendship" messages cabled to China by the Japanese news agency, there have also been editorial references in the Japanese press of an equally significant vein. For example, the *Tokyo Asahi* in its issue of June 5, after referring to the misunderstanding which has existed between Japan and China for so long "caused by politics their governments adopted in days gone by," concluded by remarking significantly, "It is possible only by means of *a national alliance of the two countries, pure and simple,* that their past unfavorable relations can be purified and placed on a sound, friendly basis." The editorial concluded by hazarding the suggestion that as a result of the friendly visit of the Chinese business men to Japan, that *"a national understanding will be brought about to such an extent that the economic alliance of the two countries will turn out to be of an epoch-making and permanent nature."*

THUS by a careful analysis of the news reports, do we get a slight inkling of what the Japanese are driving at in the present "friendship" drive in China. A few weeks ago we referred in these columns to the free trips which the Japaneee Government has been extending to Chinese lawyers, doctors, students, business men, newspapermen, artists, and so on, the money being advanced from the Japanese portion of the China Boxer Indemnity. Japan's interest in extending this wholesale hospitality to the "key" men of China is naturally for the purpose of promoting friendship between the two countries, but behind this "friendship drive" Japan has a very definite purpose and that purpose is, as hinted above the promotion of an economic alliance between the two countries. And the purpose of the so-called economic alliance is to neutralize as far as possible any ill effects which Japan might suffer through the coming into force of Chinese tariff autonomy on January 1, 1929. Everyone is familiar, of course, with the fact that the International Tariff Conference now in session at Peking has agreed to tariff autonomy for China on January 1, 1929. This means that after a period of three years dating from January 1 of this year, China will be free to make her own tariff rates. Since the bulk of Japan's exports to China are generally classified as "cheap" goods, it is obvious that the coming into force of tariff autonomy will, in all probability, have a more disturbing effect upon Japan's exports to China than upon the exports of Western nations to China. There are very few Japanese articles sold in China to-day which cannot be produced more economically in China, even under present conditions of a five percent tariff. Therefore when foreign restraint is removed and China is permitted to frame her own tariff law, the natural tendency will be for China to do her own manufacturing, especially in the "cheap" lines which do not require great mechanical skill. The manufacturers of America, Great Britain, Germany, Italy, France and Belgium, who are producers of higher-priced or "quality" merchandise will not be so seriously affected by Chinese tariff autonomy because it will require many decades before

Chinese manufacturers will be in a position to compete with them. As a matter of fact Western manufacturers, in all probability, will be benefitted by tariff autonomy in China because it will have a tendency to raise the standard of living or purchasing power of the Chinese people.

THEREFORE the Japanese have sound grounds for apprehension in respect to the coming into force of the Chinese National Tariff Law in 1929, hence the present "drive" on the part of the Japanese to promote some kind of an "economic alliance" between the two countries. No one, outside of the innermost commercial, financial and governmental circles in Japan, knows the terms of the proposed alliance, but it has been rumored for some time that Japan hopes to negotiate a commercial treaty with China, prior to January 1, 1929 under which Japanese products will receive preferential treatment for a considerable number of years, possibly a decade, following the enactment of the Chinese National Tariff Law. There have even been rumors that such a treaty is already an accomplished fact, having been signed when the late Tuan Chi-jui Government was in power and that the present "friendship" drive is for the purpose of heading off opposition which is bound to develop when the terms become known among the Chinese people. Persons familiar with the Far Eastern situation long have realized that the one element which Japan has feared above all others, in the growth of Chinese nationalism, has been Chinese fiscal autonomy. Given unrestricted right to frame her own tariff and backed by unlimited man-power and almost unlimited natural resources, China has it in her power within a comparatively brief number of years to make herself practically independent of Japanese imports. And since the China market constitutes practically one-third of Japan's foreign trade, it doesn't require much imagination to realize what may happen. Hence Japan's almost super-human efforts to head off this disaster, and since military coercion is no longer possible, naturally she turns to other methods—an "economic alliance," doubtlessly telling the Chinese that such an alliance is necessary in order to prevent Western imperialistic and financial "aggression." What the outcome will be is impossible to say. It may be possible for Japan to bribe Chinese officialdom into agreeing to an "economic alliance" or commercial treaty which would neutralize, from the standpoint of Japan, any possible ill effects of Chinese tariff autonomy, but it is extremely improbable that Japan will be able to convince the Chinese people generally, and manufacturers particularly, that Japanese products which compete with Chinese manufactures, should receive preferential treatment, under the new tariff even though the present "friendship" drive is continued until all of the Japanese share of the Boxer indemnity has been expended in free sight-seeing tours and "joy-rides" for citizens of the Republic.

TEACHING CHINA TO DEFAULT ON HER DEBTS

A FEW DAYS ago two New York newspapers, the *World* and the *Times* published editorials advocating the cancellation of the debts resulting from the World War. There was nothing unusual about these editorials since both these newspapers, the *World* and the *Times* have advocated debt cancellation previously. But *Reuters* service, which enjoys a practical monopoly of China's foreign news, evidently considered these editorials important, for they were cabled half way around the world for publication in the foreign and native papers in Shanghai and elsewhere in China. Then a few days later, the *North-China Daily News*, premier British newspaper in China, published an editorial commenting favorably on the sentiments expressed on the subject of debt cancellation by the two New York newspapers and citing the familiar arguments why American should cancel the debts which European nations, including Great Britain, contracted in America during the World War. There are sound arguments on both sides of this question of debt cancellation, but there isn't the slightest possibility of the American people agreeing to cancellation now, or possibly for a considerable number of years. Anyone who doubts this should read the accounts of the debates in Congress when the various debt-funding agreements are brought up for ratification. The United States Government raised the money which it loaned to Europe during the war by floating domestic bond issues, otherwise, Liberty Bonds which were sold to the American people. If the United States Government should cancel these debts, wipe them off the slate, it would still have to carry out its obligations to the bond holders, the American people. Therefore cancellation would mean higher taxes, for the U. S. Government would cease receiving interest and amortization payments on the European loans. And since Americans are human beings, animated by selfish instincts as are other human beings, it would be difficult imagining them taking money out of their own pockets purely for the benefit of the abstract principle that such an action might improve world conditions, the fellowship of mankind, and so on. The average American who thinks on the subject at all, thinks in terms of his own pocketbook, just like everybody else and since Congress is a representative body, there isn't the slightest liklihood, at the present at least, of any movement in the direction of debt cancellation getting very far in that body.

HOWEVER, we didn't start out to discuss the merits or demerits of debt cancellation. What we have in mind is the very real danger involved in propagating this subject of debt-cancellation in this part of the world. In the same issue of the *North-China Daily News* which contained the *Reuters* report on debt cancellation, (from the American-European standpoint)there was a report of a debate in the House of Commons on the subject of China's debts to Great Britain. One of the members expressed anxiety that the confiscation of the salt revenues by the militarists would lead eventually to China's default upon foreign loans secured on the salt revenue. The Under-Secretary of State for Foreign Affairs in his reply attempted to allay anxiety, but Mr. Rodney Gilbert, Peking correspondent for the *North-China Daily News* showed in an accompanying dispatch that a real danger does exist is this respect, otherwise that China probably will default on her foreign loans based on the salt revenue just as she is defaulting on loans secured on the railways and on the loans contracted with Japan during the European War. It is recognized of course that China's foreign loans are in an entirely different category from the loans contracted in the United States by the various European nation during the world war. But regardless of whether they are right or not, there are many

Chinese who have become imbued with this debt cancellation propaganda. They have seen Soviet Russia repudiate her foreign debts and, thus far at least, get away with it. They have seen eminently respectable European nations delay payment of war debts until they could obtain favorable terms in the form of debt-funding arrangements running over periods of sixty years and longer. And since the Chinese have the reputation of being the best bargainers in the world, it is but natural that they should decide to do a little defaulting on their own accord, hoping that when the day of accounting comes they may receive a better deal. The Chinese associate many of their foreign debts with the whole situation of the so-called unequal treaties and since these old treaties are not popular, it is but natural that the debts likewise are unpopular. We are not arguing that the Chinese are right in repudiating their debts in the hope of receiving better terms in the future: we are merely stating the facts in the situation. This subject of repudiating debts smacks of bolshevism and strikes at the very foundation of society as at present organized. These is no more morality in a nation repudiating its debts than there is in an individual or a company repudiating its debts, if really able to pay. Therefore we say again that the spreading of propaganda in this part of the world on the subject of debt cancellation is highly dangerous and detrimental to the very interests responsible for the dissemination of the propaganda.

WHY THE PARK QUESTION REMAINS UNSETTLED!

IN LAST week's issue of the *Review* there appeared an editorial entitled, "The Park Question—Why the Delay" in which reference was made to the delay in settling the question of the admission of Chinese to the public parks of Shanghai. At the annual meeting of tax-payers held some three months ago, the chairman of the Municipal Council of the International Settlement, Mr. S. Fessenden, declared in the course of his report, that the question of the admission of the Chinese to the public parks had been commended to the careful consideration of the incoming Council. The fact that more than three months have elapsed since the annual meeting of tax-payers without any public announcement being made, led to the inquiry in last week's issue of the *Review*. Now it develops that the fault for finding a solution of the question does not rest with the foreign authorities, for it seems that immediately following the organization of the new Council a letter was officially addressed to the Chinese General Chamber of Commerce of Shanghai asking that body to appoint three members to meet with the Park Committee of the Council, (which contains three foreigners) for a friendly solution of the question. According to report, the Chinese General Chamber of Commerce accepted the Council's invitation very cordially, but although three months have passed, the Chamber has not yet announced the appointment of its committee. The reason for the delay is not definitely known, but it is rumored that the committee of the Chamber has not yet been able to agree upon the personnel of the Chinese committee to confer with the foreign members of the Park Committee of the Municipal Council. In the meantime the authorities of the French Concession seem to have worked out the problem satisfactorily for visitors to the French park recently have noticed the use of the place by Chinese residents and apparently without any of the ill effects which have caused apprehension on the part of certain elements in the International Settlement.

Development of Chinese Courts at Shanghai

BY C. L. HSIA

When Shanghai was first opened in 1843, the jurisdiction of the consular officials was the same as in other open ports. The Chinese authorities lost their jurisdiction over Chinese in the Settlements during the Taiping Rebellion in the middle of the nineteenth century. To meet the emergency of the time, the treaty power consuls, began to sit as police magistrates as the Chinese administration was for the time being completely disorganized. The idea of assuming municipal jurisdiction over the Chinese population was suggested to the foreign communities, but was refused by the diplomatic representatives at Peking. The result was a seperation of the foreign areas; the French Settlement definitely entered on its own separate existence, with its own municipal government and eventually its own court; the British and American Settlements amalgamated into the Shanghai International Settlement.

In 1864 a mixed court was established for the first time in Shanghai. The rules of the Mixed Court were further amended and formally published in 1869. They were published by the British Consul at Shanghai, to be noted, acting under instructions from the British Minister at Peking, governing the procedure to be followed by British parties and assessors in court before the Mixed Court. The court was presided over by a deputy of the Taotai, with the rank of sub-magistrate; all cases affecting the interests of foreigners were to be heard with an assessor, but the deputy still heard cases alone in which both parties were Chinese. Chinese servants of foreigners could be summoned only with the consent of the consul concerned; criminal charges properly punishable by death or banishment were heard by the Shanghai magistrate. The principle laid down in the British Agreement of Chefoo, 1876, states that "cases are tried by the official of the defendant's nationality. . .the law administered will be the law of the nationality of the officer trying the case," and this was from that date the rule of the Mixed Court. But it has come to pass that no case is now heard by judge of that court sitting alone; and the consular assessor is part to the judgment in every case. Therefore, in the International Settlement at Shanghai, if a Chinese commits a crime on another Chinese or issued by another Chinese he, even though the case involves no foreigner or foreign interest, must be tried before a Mixed court, wherein a foreign assessor not only watches the proceedings but virtually tries and decides the case.

The matter went even further. During the Revolution of 1911, the Consular body in Shanghai issued a public proclamation, dated November 10, 1911, which contained the following assertions of authority:—

"Whereas there is at present no authority recognized by the Powers in the control of affairs in Shanghai city and district, and whereas it is essential for peace and good order of the said Settlement that the Mixed Court with the prisons thereto attached should continue to carry on their functions, the Consuls of the Treaty Powers hereby notify all residents in the said Settlement, foreign and native alike, that by virtue of their position and authority they have in a measure of expediency confirmed Messrs . . . . . in the offices they already hold as the Chinese Magistrates of the Said Court to act under the guidance of and in consert with Assessors of the Consuls as heretofore, and have authorized the Municipal Police of the said Settlement to direct the Municipal Police to take over the prisons of the said Court and to execute summons and warrants when hearing the seal of the Senior Consul, and its decrees and orders when countersigned by the proper assessor, and to maintain and uphold the lawful authority of the said Court in every way."

In short, two practices of the Mixed Court are distinctly unwarranted by treaty stipulations: the provision of the treaty certainly did not imply an authority in the "Assessor" equal to that of the Chinese magistrate, while in practice the assessor's concurrence is necessary to constitute a valid decision; again, since 1911, the Consular Body has assumed the power of appointing and dismissing the Chinese magistrates.

The Powers have tried to justify their retaining the control on the ground of practical administrative efficiency. Whatsoever may be other points of view and their justifications,—from the standpoint of international law, it is clear there is only one solution—existing treaties are the obvious that guide in such matters, and, over and above treates or in the

absence of such, there are the principles of international law governing the matter in question. Without entering into controvery a question of this kind can be conveniently discussed as one form of state servitudes. The negative state servitudes, according to Hall, must "conform to the universal rule applicable to jura in realiena. Whether they be customary or contractual in their origin, they must be construed strictly. If, therefore, a dispute occurs between a territorial sovereign and a foreign power as to the extent of nature of rights enjoyed by the latter within the territory of the former, the presumption is against the foreign state, and upon it the burden lies of proving its claim beyond doubt or question." In the light of this principle, then, all the arguments for retaining the control fall at once to the ground. For it is a very much one-sided argument to base upon better efficiency in administration or better safeguarding of foreign interest as the sole justification for violating China's sovereignty and treaty rights on the part of the treaty Powers by the latter's tenaciously retaining their police and judicial administration in the International Settlement of Shanghai.

Rendition Is China's Natural Right

Hence the rendition of the Mixed Court is China's natural right, and it will infinitely help matters if all the treaty powers frankly acknowledge this. Because there is not the slightest doubt that the court must eventually be returned to China, though, unfortunately, the question has too often been complicated by the question of settlement extension and of Chinese representation on the Municipal Council.

It cannot be denied, on the other hand, that the foreign interest in the International Settlement is so considerable that any change in the present regime will be sure to encounter a great deal of opposition. Therefore the rendition of the Mixed Court is not quite so easy a matter as some of us may think. This is a fact that Chinese may so well to bear mind. Apart from the question of the abolition of extraterritoriality, the Mixed Court may be considered on merits and most probably special considerations may be given for Shanghai on account of the great financial interests foreigners attach to the port.

If we look carefully into the nature and the amount of cases which the Mixed Court has to deal, we shall soon discover a number of important fact. It is estimated that more cases are tried in this court every year than are tried in possibly any other court in the world. In 1911, some 15,000 cases were dealt with exclusively of petty breaches of municipal regulations. The importance of this tribunal is further enhanced by the fact that its jurisdiction is practically without limit as to questions of life, liberty, property, and that no provision is made for appeals from its decisions. Again, the court, although it is known simply as the Mixed Court, and sits from day to day in the same building, as a matter of fact contains within itself several different courts. The Mixed Court in Shanghai is in fact the police court or court of summary jurisdiction for all offences committed by Chinese or non-treaty power foreigners within the area policed by the police of the International Settlement. It is also criminal court or an "Assize" as it is called in the English system when it deals with the more serious cases of crime. Lastly, it deals with all civil suits brought by foreigners against Chinese and also with all civil suits between Chinese in Shanghai in which the defendant is a resident of the Settement.

In view of the above facts, the rendition of the Mixed Court may well be accomplished in parts by splitting up its present several-fold jurisdiction. The most logical procedure to adopt will be, it seems, divide the Mixed Court into several distinct courts to fit in with the properly constituted national tribunals and at the same time to relieve the present congestion.

The machinery of the present Mixed Court may continue to function as the police court or court of summary jurisdiction for all offences committed by Chinese against the Municipal regulations. Even here, we know that cases brought before it will vary from petty theft to more important complaints, and for the sake of convenience there may be further sub-divisions or differentiations. Of this court the constitution can be left as it is, that is to say, the court be still presided over by a Chinese magistrate appointed by the Chinese authorities and he may be assisted by an assessor provided by one of the consulates in cases where foreign interest is affected. The presence of the Chinese magistrate as the presiding officer serves to satisfy partially the letter of the treaties and makes it a Chinese court at least in appearance. There should be a provided an appeal court from this, composed of consul-general of the leading powers with a Chinese official of appropriate rank at the head.

On the civil side all suits brought by foreigners against Chinese and also all civil suits between Chinese should be brought before a Chinese court in the city. Representatives of the consulates or of the Municipal Council of the International Settlement are invited to be present to watch the proceedings but do not sit on the bench. In view of the facts that these magistrates or judges are required to possess somewhat different training from the ordinary Chinese law courts and that there is the presence of foreign representaives and witnesses, this court should not be the ordianry Shanghai District Court though may be a part of it or even within the same building. Needless to say it will be in every sense a Chinese court of law.

On the criminal side, all accused persons should now be brought before the Chinese Criminal Court of the District of Shanghai. The Municipal Council should act as public prosecutors in all criminal cases occurred within the Settlement.

Two or three secondary or incidental questions connected with the rendition of the Mixed Court may now be dealt with. The first is the question of appeal. So far the Chinese Supreme Court in Peking has definitely refused to recognize the legal status of the Shanghai Mixed Court, and perhaps on very good ground. But under this new scheme of things, the Peking Supreme Court shall be the final court of appeal for all the three courts, the derivatives of the existing Mixed Court. Should at any time a foreign subject feel justice has not been done to him by this appeal court, he can always get his diplomatic representative in Peking to take up the matter with the Chinese Government.

The other miner question is the question of expense. It seems only fair that the Shanghai Municipal Council should contribute a definite sum towards the maintenance of this extra judicial machinery now set up by China for the benefit of the International Settlement, as the Chinese Treasury receive practically nothing from the wealthy and prosperous community of the Settlements.

Some people may now be wondering: Why all these innovations if extraterritoriality is on the eve of being abolished and that will sweep the mixed courts and everything overboard. Well, while one does not wish to pose as a prophet to foretell the outcome of the Extraterritoriality Commission at the same time one feels justified in submitting a few observations.

Extrality To Go Slow

The present extraterritorial system in China today is a growth of nearly a century and is not likely to be obliterated by a single stroke of the high Commissioners. In other words, the actual abolition will most probably be a progressive undertaking. If so, the ultimate success may largely depend upon the nature of the intermediate steps or transitional stages that are to be employed. Again, we may do well to bear in mind the fact that Shanghai, from the very nature of the place, requires a somewhat different treatment and it is probable that special provisions will be made for it.

Furthermore, when the Extraterritoriality Commission has settled upon the general principles under which aliens in China should conduct themselves in future, it does not necessarily mean that the question of the Shanghai Mixed Court is also thereby solved, unless the Commission has been so instructed in its terms of reference. For we must realize that the question of the Mixed Court is closely bound up with the future status of the Municipal Council which is in turn with the validity of Shanghai Land Regulations. In view of the foregoing considerations it may not, therefore, deemed idle to consider and suggest the immediate and partial rendition of the Shanghai Mixed Court apart from and in anticipation of the outcome of the Extraterritoriality Commission.

As the writer has frequently advocated, during the transitional stages of the abolition of consular jurisdiction a number of foreign judges might be advantageously employed by the Chinese Government for a certain number of years in such places as Shanghai. These foreign judges will sit with Chinese judges in cases where foreigners are involved. By the time this stage is reached, the Chinese district courts (which have taken over the civil and criminal jurisdiction of the Mixed Court) and their Chinese judges may now be sufficiently prepared and experienced to take notice of all cases, Chinese and foreign, and to be able to work together with the foreign judges.

That the development of Chinese courts in Shanghai will have far-reaching importance upon the legal evolution of the whole country cannot be exaggerated. It is quite certain that there will be a "Greater Shanghai," and that Shanghai with its surrounding industrial district will form one of the "Special Areas," whose administrations will be directly responsible to the Central Government in Peking. Then the Shanghai District Court or the central court of the Shanghai Special Area under the immediate supervision of the Supreme Court of China will have complete jurisdiction over all persons and property of one of the greatest cities in the world.

327 Bubbling Well Road, Shanghai, June 11, 1926.

The Shantung University Library

BY JOHN C. B. KWEI

FIFTY-three years before the formation of Yenching University, forty-five years before the establishment of Tsing Hua College, thirty-four years before the organization of National University of Peking, and fifteen years before the opening of St. John's University, Shantung Christian University had already come into existence. It was originated in the founding of the Tengchow College in 1864 by Dr. C. W. Mateer of the American Presbyterian Mission. In 1904 it was removed to Weihsien; but only in 1917 the union of all departments,—arts and science, medical & theological, could be made possible in Tsinan.

The Library a Necessity

The University Library has its nucleus in Weihsien, with a collection of ninety volumes to ninety times that number. From 1904 up to 1922, there was no need of any catalogue; then came the Sheaf Catalogue,—a catalogue made of slips pasted into a book. And finally the printed book catalogue had been used. Books were either arranged by size, or by chronogical order, or by different kinds of binding, or by geographical distribution, or by language, or by alphabet, or by subject matter. Generally speaking, the Library was in the primeval, or first stage of development. It was merely and solely a collection of books, which were partly purchased and partly donated, and the librarian its faithful custodian. All books were carefully guarded from the casual readers, and could be obtained from the shelves after a careful and necessary search.

Since 1922, the importance of the library began to be considered not as a luxury but a daily necessity. The books of the library are as much part of the school machinery as are the various pieces of apparatus in the physical or chemical laboratory. Special credit must be given to Dr. J. D. MacRae, dean of the Theological School and others, that through their untiring efforts, a sum of about seventy thousand dollars Mexican has been donated by the Augustine Church of the Presbyterian Mission, Winnipeg, Canada, for covering the cost and equipment of the library building, which is now one of the seven beautiful buildings in the whole campus. The building marks the foundation of library activities, expressing to its patrons its outward permanence and importance. It is a two-storied structure, one hundred feet long and fifty feet wide, and made of gray brick. The roof preserves the graceful lines, seen in the roofs of Chinese temples and pagodas. Since it is a combination of the European and Asiatic styles, the architecture may be wittingly called "Eurasian."

The Building Arrangement

All the rooms in the first floor are used for semi and daily newspaper rooms. In the second floor, the general reading room is on the east side, the stack room on the west side, and the librarian's office and the charging desk are in the center. The reading room is the place where all current periodicals and general reference books are located, and can accomodate one hundred persons comfortably at the same time. The stack room has the capacity of shelving forty thousand books, and at present is not open to the public, without special arrangement. The library hours for week-days are from 7.30 a.m. to 9.30 p.m., and books can be borrowed or returned from 9 a.m. to 12 a.m., 2 to 4.30 p.m., 7 to 9 p.m. The average number of books borrowed daily is forty. People living outside the University are cordially welcome to use the library, and can even borrow books, if suitable arrangement could be made.

Mr. Donald Dean Parker had the honor and privilege of being the first trained librarian. He came to the library in the summer of 1922. It was largely through his energetic efforts that the collection of books were classified according to the world-famous Dewey's Decimal Classification, and catalogued according to the rules of American Library Association. It is a matter of regret that he only spent two years in the library. In the fall of 1924, the writer was appointed to succeed him.

A Lively Collection of Books

Now there are about twenty-two thousand books, both English and Chinese, and one hundred twenty magazines. The Chinese books covers one half of the whole collection, and the medical books, which are placed in the medical school for the convenience of the medical doctors and students occupy one-seventh of the whole. The Blakistone Collection On China has approximately six hundred books, both English and Chinese, on Chinese subjects. It is hoped that this collection will soon become a gold mine for the research workers.

In short, the time has passed when the library is just a mere collection of books, unused and unsystematic, unsocial and unserviceable. On the other hand, it is going to be a lively collection, full of life and pep. But to attain this end requires the help and aid of every good-wisher of China and the University.

Tsinan, June 3, 1926

Foreigners Sentenced In Tientsin Arms Swindle Case

James B. Underwood, an American citizen formerly of Tientsin, has been sentenced to serve 30 month's imprisonment at McNeil's Island Penitentiary, and E. A. Miller, who has been stationed with the 15th U. S. Infantry Corps at Tientsin, has been sentenced to serve 18 months at the same penitentiary, in connection with an arms swindle case at Tientsin. The two men arrived in Shanghai last Sunday, June 13, from Tientsin in custody of Thurston R. Porter, U. S. Marshal, to await transporation to America.

Thomas MacGowan, manager of the Robinson Music Co., Tientsin, a British subject, was also found guilty of being implicated in the swindle, and was sentenced to one year's imprisonment in the Amoy Road Jail. He arrived in Shanghai last Monday, June 14.

Charged On Three Counts

Underwood and Miller were tried in Tientsin before Judge Milton D. Purdy, of the U. S. Court for China, charged with—1. larceny, 2. obtaining money under false pretences and 3. embezzelement, in connection with the arms case with Chinese. They were arrested in Chefoo about two months ago, after they had fled from Tientsin, subsequent to having obtained $41,500 from Chinese agents of General Chang Chung-chang, Tupan of Shantung Province, for the purchase of 1,500 rifles and hundreds of thousands of rounds of ammunition. The agents told the Chinese to come for their cargo at midnight, but left Tientsin earlier in the evening.

In outlining the case for the Government, Mr. L. G. Husar, U. S. District Attorney, said that Underwood was an ex-soldier from the 15th Infantry, who came to Shanghai in July, 1925, where he was arrested as a deserter and returned to Tientsin. Mrs. Underwood, intimated Mr. Husar, had purchased Underwood's release and they were married. She was the owner of a magizine called "Peking at Play" and Mr. Underwood became the business manager.

U. S. Army Rifle As "Sample"

On April 8, Underwood interested Chinese agents of General Chang Chung-chang in the purchase of guns and ammunition, and offered them 1,500 rifles and 1,000 rounds for each weapon, which were to be delivered in lots of 300 rifles and 300,000 rounds. Underwood induced Sgt. Miller to bring a U. S. Army rifle as a sample. The Chinese agents were more than delighted with such a sample and agreed to pay $145 for a rifle and 1,000 rounds of ammunition. The Chinese agents were allowed to retain the army rifle after putting up a security of $1,000. On April 10, Underwood told the Chinese agents that he was the second partner in a company which Miller was the chief figure.

The Chinese wanted a guarantee to the contract, so Thomas MacGowan, manager of the Robison Music Co., Tientsin, assured the signature to the contract which he drew up on the company's stationery. The Chinese borrowed the money at once and paid over $41,500 less the orginal deposit of $1,000 for the rifle, Underwood and MacGowan receiving the cash.

The men split the money and told the Chinese to come for the guns at midnight that night——they could telephone MacGowan at the store at any time. MacGowan with his share of the spoils sent his wife in England $12,000 and gave another person in Tientsin $2,000 to care for his outstanding chits. That night they left Tientsin for Shanghai. Having telephoned MacGown insistently for hours with no reply, the Chinese applied to the Tientsin municipal police, who, ascertaining where the men fled, cabled for their arrest. Consular officials brought them back from Chefoo. Mrs. Underwood was not sentenced.

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37-063

Is China Becoming Effective In Modern War?

BY R. RAPHAELSON

In the Oriental Engineer for June 1926.

CHINA, we often hear, is the place where gunpowder was first invented. We hear also that, in spite of a history plentifully spotted with wars, the Chinese are a peaceful people. These two statements, both truely baffle many people. To others they give an impression of a land where, but for the passivity of the people, there would have been no lack of training in the arts of war, and that in spite of that attitude, there was no lack in knowledge.

There are flaws in the theory, as everyone who has lived in China knows. The Chinese are a peaceful nation, but there has always been a warring class, whose business has been empire or resistance to the empire-seeking invader. These wars of China have not been freaks, not sudden, incomprehensible epidemics.

But also they were really not so fierce wars as one might expect of a people who invented gunpowder. They seem trivial judging by present-day China, much less by the west. China, in spite of its much heralded invention, has never led in the arts of war. For that matter, there is even a joker in her invention. She did not use if for killing but for noise. She made firecrackers. Indeed, it is the opinion of the historians that it was not until China's gunpowder had travelled all the way to the west and back again that China ever thought of using it in war. It came back to China over the old trails travelled by the periodically-sweeping hordes from the north, and came back as guns.

Gunpowder is symptomatic of much of China's development. Even when where she has led the world in inventions, she has imitated in application. Her armies today, as her printing, are not a result of an evolution from within, but of a suprisingly late importation of the knowledge and technique of the alien.

At the Cross Roads Now

The present moment, when China seems on the eve of becoming a full-fledged warring nation, with modern equipment, modern command, and, rapidly, with modern efficiency, is a propitious time for bringing together a statement of the significant present with the significant past. China's new armies are splendidly characteristic of this age of imperfect grafting of a new culture, represented in large part by advances in material progress, on an old culture, which was characterized by deepening of habits, but not much development.

In her meager, if long-extended system of armaments which constiuted China's means of defense and offense for all the many centuries before the white man came, China was just as static as she was in other fields. The new impulse to change and develop came from the west. Its immediate agent, in armies as in industries and railways, has been the engineer.

It is true that he must take the credit or blame—depending upon the point of view—for China's future in arms. Without him, the new warring China would not have been possible. It is not only arms that he brought, but even more important, railways, industries, wireles plants, machinery. These no less than guns ammunition, airplanes, and bombs make China's armies.

There will be nothing in this article that is new. It will be merely a contrasting of the material available in statistical books on China with a review of China as she was in war from the earliest days until the coming of the white man.

Today China's war equipment is not in any detail distinctly Chinese. Frequently, in the manufacture of the new equipment, there have been modifications from the western models, but many of these changes have been accidental, unintended. China's armies are today as far removed from the armies of even fifty years ago as the railway engine is from the wheelbarrow.

"International Weapon"

The China Year Book refers to some of China's present equipment as "international weapons". They seem to be a bit of this, a bit of that, and very little Chinese. All arms ammunition, accoutrements are of foreign make or manufactured in Chinese arsenals after foreign models, usually Japanese or German.

The following rifles, for instance, are known to be in use in China: Mannlicher 6,5 m.m. rifles and carbines; Japanese 6,5 rifles and carbines of the 30th and 38th years of Meiji; Mauser 68 rifles, model 1913, manufactured at the Hanyang, Canton, Shanghai and Honan arsenals; Mauser 7.9 rifles, model 1888, manufactured at the Canton and Hanyang arsenals; Japanese 7.9 rifles of the 20th, 28th and 36th years of Meiji; Japanese 7.9 rifles of the 22nd year of Murata, and Russian 3-line rifles.

During the more recent wars, China has developed out of the rifle stage. She has been faring forth with machine guns, trench mortars, and bombing planes. Machine guns are many of them of Chinese manufacture, made on western models, some of them long abandoned by the west. Statistics state that the majority of them are designed after one or another of the following models: Maxim Hotchkiss, "German Pack," "Rex" and the Japanese air cooled gun. A considerable number of imported Japanese machine guns of more modern design are in use.

China also is manufacturing field and mountain guns in all of its larger arsenals and some of its smaller ones. Shanghai, Hanyang, Honan and Canton are turning out the Krupp 75 m.m. in large quantities. Also in use are Gruson 57 and 75 m.m., Arisaka 75 m.m. and Schneider-Greusot 75 m.m. field guns together with Hotchkiss 37 m.m.

Coast artillery is said to be practically all of Krupp manufacture, imported and set up from 30 to 35 years ago, and is of all calibres up to the 10-inch guns mounted below Foochow on the Min River. It is stated that although many of these guns are of obsolete manufacture, they are in good condition and have adequate supplies of munitions.

Dotted With Arsenals

China, viewed as a peaceful country, presents a list of arsenals that is staggering. Although the Ministry of War lists only five, operating under Peking control—the Hanyang Arsenal at Hupeh, the Hanyang Branch Arsenal, the Tehchow Arsenal in Shantung, the Kunghsien Arsenal in Honan and the Nanyang Arsenal in Shanhai—it is estimated that there are actually in operation a score or more, all using imported machinery and turning out modern weapons or ammunition, in a more or less efficient manner. Moreover, a complete list of plants, repair shops and powder factories would run into the hundreds. Of course, many of these plants are scarcely worthy of the name arsenal which is used with disconcerting frequency in China. Nevertheless they indicate a tendency and point a future.

The following statistics on the larger arsenals give an idea of the capacity and present conditions.

The Muken Arsenal operated for a long time with machinery that was made in China, some in Shanghai, some at the arsenal itself. Recently there has been a large importation of Danish machinery. Ether, sulphuric acid and smokeless powder are manufactured. The copper used is mined in Manchuria, refined in Japan. In 1924, the arsenal was turning out 200,000 rifle cartriges a day. It also turns out egg shaped hand grenades. In addition, the plant is turning out field guns, machine guns, rifles, ammunition for all weapons, trench mortars, aeroplane parts and poison gas. The arsenal is under foreign instruction. Big calibre artillery and Lewis guns are in the plans.

At Tehchow the machinery is British and German, from 15 to 25 years old. Formerly this arsenal was equipped to manufacture rifles, pistols, machine guns, and ammunition, but at present, due to inadequate power, it is turning out only rifle and pistol ammunition.

Tsinanfu also has German and British machinery. The arsenal employs 700 men. Small arms ammunition is turned out and machine gun parts, except barrels, which are obtained from Shanghai.

The capacity of the Taiyuanfu arsenal, formerly nothing but a repair shop, was increased in 1923, and the plant put under foreign instruction. Shell cases, mountain guns, rifle ammunition, Mauser pistols and rifles are made.

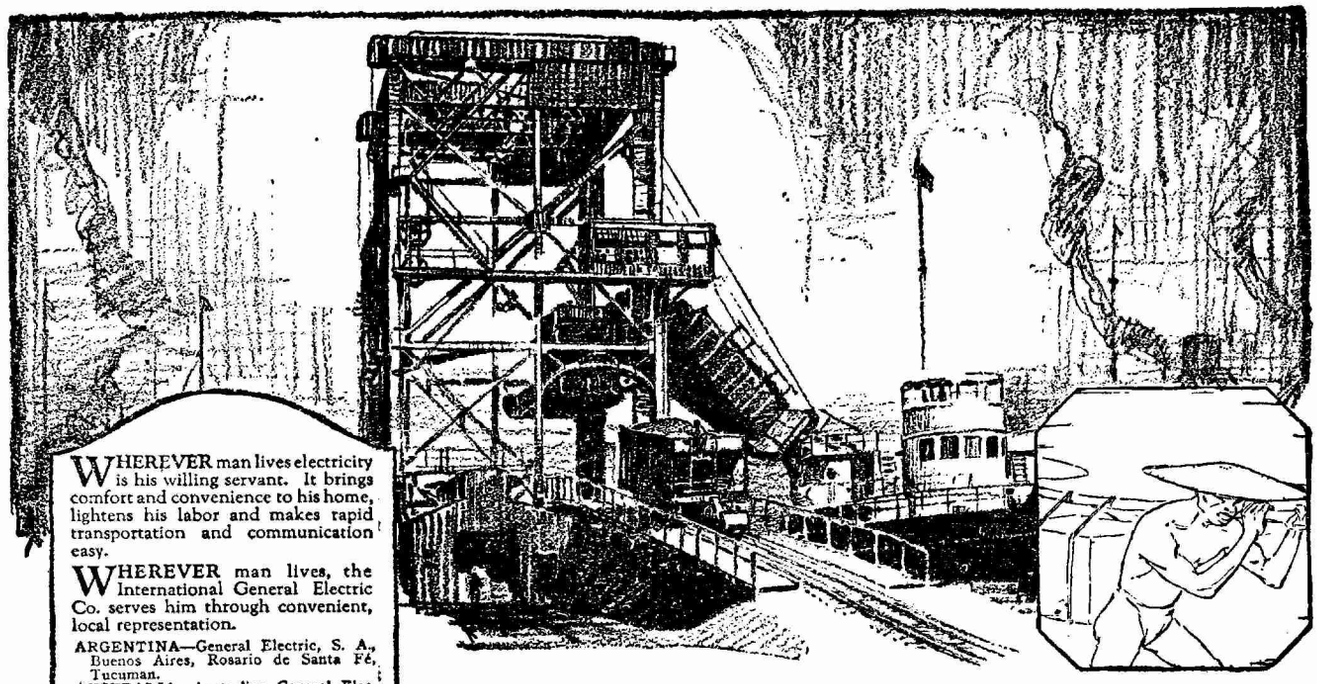
At Kaifengfu, there is an arsenal, employing four hundred men, using partly British, partly German, partly Chinese machinery, turning out 8,000 cart—ridges, two or there rifles and one pistol per day, and three machine guns a month.

Kunghsien is making 75 m.m. shels in a plant employing three hundred men.

At Hanyang, the machinery comprises older Krupp, Shanghai arsenal and some American. The arsenal and the adjacent smokeless powder factory employ five thousand men. The plant can put out 200 rifles of Mauser pattern a day, 200 bayonets, 20 Mauser pistols; five machine guns, Maxim pattern, per month; rifle ammunition of round nosed type, about 500,000 per week. This arsenal has well equipped chemical and mechanical laboratories and a tehnical school for apprentices.

The machinery at Nanking is of old German make. There are six shops, a machine shop, an ammunition factory, an iron foundry, a copper foundry, a moulding shop and a wood working shop, employing in all four hundred men, The maximum output per month is four machine guns of Maxim old style, 120 pistols and 1,200,000 cartriges.

German machinery is used also at Changsha. The plant employs four hundred men, doing mainly repair work but turning out two or three machine guns and forty to fifty rifles a month. There is also machinery for small arms ammunition.



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37-065

Foochow has the largest naval arsenal in China, and also a small military arsenal which has been established in the provincial mint, which can turn out a 37 m.m. mountain gun in fifteen days, a 75 m.m. field gun in a month and a half, ten machine guns per month and three rifles per day. The naval arsenal is large but not very productive. It has insufficient machinery, and does little besides repair work and the experimental manufacture of sea planes.

The original machinery at Canton was British and German. In 1921 a large quantity of American machinery was imported. The present capacity is about 700,000 cartridges a month, 25 rifles per day, 8 machine guns of Vickers model per month and an unknown number of automatic pistols. Smokeless powder is also made.

China Grows Fierce

These are the main arsenals in China today. In comparison with western standards, they seem trifling. But it must be remembered that during the past twenty or twenty-five years, in spite of periodic defeats by the various warlords leading to the closing of plants, there have been sufficient arms turned out in these plants, sufficient efficiency in manufacture developed, that, together with the importation of arms and direction from abroad, China's warring leaders could equip themselves in a quite formidable way in 1924. In fact, Lawrence Impey at that time prophecied that in the next war—the one just past—China would prove that she could no longer be ignored as one of the warring nations of the world.

The recent war seems to have justified this prophecy. Very little that is associated with modern warfare was neglected, not even bombing raids from the air. There seems, from all reports, to have been a new sureness in the use of artiliery, a new proficiency in the digging and use of trenches, a new efficiency in command, backed by a steady supply of ammunitions which made possible a rather protracted war on a modern scale.

In few fields has China so completely accepted the west as in this field of armaments. In other fields, the old and the new remain side by side. We see railways, motor cars and airplanes, but we see also Peking carts. We see great water plants—but also wells whose creaking ropes are operated by hand. We see electric lights and old lamps, modern pavements and mud roads. In arms, alone, has the old disappeared.

Looking Backward

Looking back the change seems almost lightning-like. It was not until the Mongol dynasty that guns were known at all in China not until after the Saiping Rebellion that anything resembling modern warfare came into existence.

The present rapid development has been made possible only by engineers and an industrial age.

Even the sketchiest review of the past brings to the attention the gigantic leaps that are being made in China under the engineer's tutelage. It brings back, also, some flashes of a long-enduring era, that in its beginning is as thrilling as a King Arthur tale.

Prehistorically, China did not vary a great deal from other more or less primitive peoples. Organized on a clan basis, something like the Indians of North America, they fought with stone axes, flint-headed arrows and spears, wooden shields. Possibly they had hide body armour. The evidence is not clear.

When changes did come in those ancient days, they did not spread in epidemic fashion as they have in the latest era. Long after China proper was enjoying the culture of the Bronze Age, outlying districts were using the old stone axes and flintheaded arrows. There were not railways in those days to carry a culture into distant regions.

Anthropologists in China are wary of giving a definite date to the coming of the Bronze Age. The records carry them back only to the 8th or 9th century B. C. At that time, the Bronze Age was in swing, and had been in existence, for almost a thousand years.

Culture from the West

The bronze culture came it is believed, from the west. Possibly from Russian Turkestan, the new people came, who brought the bronze weapons, hide armor, battle-axes, spears and arrow points. They brought also a picturesque old chariot, which carried a driver, a bowman and a spearman into the fray. The feudal lord rode in the chariot. His vassals came on foot, armed with spears and perhaps with bows. Some 75 to 225 of them to a single chariot, supporting it when it attacked, following up charges, becoming common workmen on the road, when the chariot turned over or became stuck in a bog.

Carl Bishop, archaeolggist of the Smithsonian Institute in Peking, gives a vivid description of the fighting in these old days. As is the habit of students of ancient periods who have become saturated in the evidence and lore of the era they are trying to reconstruct, his description sounds not unlike that of an eyewitness reporter in a modern engagement.

"It was not usual," he writes, "although it seems occasionally to have happened, that the chariotry was massed separately from the foot; sometimes, too, the occupants of the chariots were ordered to get down and fight on foot, like the French knighthood at Poictiers (and with about as much disgust at the idea of having to fight like a peasant; there is, in fact, one instance, where, when about to engage a force of light-armed barbarians from the north, fighting on foot, one noble said he'd see himself and the C. O. in Sheol before he'd fight on foot, and was beheaded beside his car for it.)"

Mr. Bishop's description of the chariot fighting makes modern warfare seem drab and grey. "These war carriages were gorgeous," he writes. "They were decorated with red lacquer, ivory inlay and covered with gilding. Silk banners were flying, and the nobleman sat in state, wearing rhinoceros hide armor decorated with gilt bronze."

The peasantry was not so gorgeous. They came on foot and carried stone weapons. Their uniforms were bereft of gilt.

Horses Bring Walls

Until the close of the Feudal period, in the third century B. C, this type of warfare was prevalent in China. For some time before the coming of the Ch'in dynasty, a variant in fighting had been introduced among the peoples of Mongolia, who began to fight with bow and arrow on horseback.

It is because of these mounted Mongolian bowmen that China is today a land of walls. There had been walls in China before, but they had never been such a matter of life and death as they now became, with the fiercemounted Huns bearing down upon the Chinese countryside. Walls sprang up all over the land. and they have been springing up ever since.

The walls that are seen in China today are not, of course, the same defenses built in the days of the marauding Huns. Few are standing that date before the Ming Dynasty, not even the Great Wall at Nankou which, when the records are stifted, proves to be not as old as is stated in the guide books. It was built sometime in the middle of the 16th century. Peking's famous wall, was built a year before. These are really modern walls. There have been walls in China two thousand years before.

The threat of the mounted soldier was for hundreds of years China's greatest dread. He outclassed the old peasant infantry and made ineffective the gorgeous charioteer. China took to horseback to settle its quarrels.

Other changes came in the course of time. Iron replaced bronze sometime in the early Christian era, and real armour came to China.—armed curaissiers, with sword, mace and lance, in the way of the age of Chivalry in the west.

But China has not been particularly aggressive. Especially in periods—which have predominated in Chinese history—when there was no strong central government, it has been a matter of inter-provincial wars, in which a greater stress has been laid upon the defense of walls than the development of new ways of attack. There have, of course, been warlike interludes when great forces have ventured far beyond the borders of China proper and added the dominions that make China cover the enormous territory which she nominally holds today.

Such is the past of China. It was a walled-city country that the white man found when he came across the seas in search of silks and spices.

He changed all this, A wall, no matter how high nor how thick, is of little use in China today. There are times, to be sure, when it is a comfort as in the recent stormy weeks in Peking, when an interlude of security was gained by closing the great old gates and piling up sandbags to keep out the unpredictable conqueror. But today it can bring no more than just such an interlude.

For the rest, there is little left in China to recall the old age of warfare. Occasional incongruities of equipment still remain as a reminder, making almost ludicrous the modern Chinese soldier.

Walls will crumble. The sentinel's sword will go, as the umbrella and fan are going. There is a better trained, more determined discipline in China's armies. The new era of warfare in China, the industrial era, which is the work in so large a part of the engineer, is in full swing.

Brig. Gen. Henry J. Reilly, U. S. A., Ret, who was in North China recently on an observation tour, looked over China's armies with eye of a soldier. His comments on the astounding growth in size and efficiency of China's armies are impressive. When he was interviewed in San Francisco on his return to America, he spoke of China's armies. He commented on the modern methods, the modern weapons, and hinted that in case China ever went to war with one of western Powers, she could not be casually crushed. The days when a paltry 20,000 men could subdue the country, as in 1900 when the Boxers were suppressed, are gone, says General Reilly.

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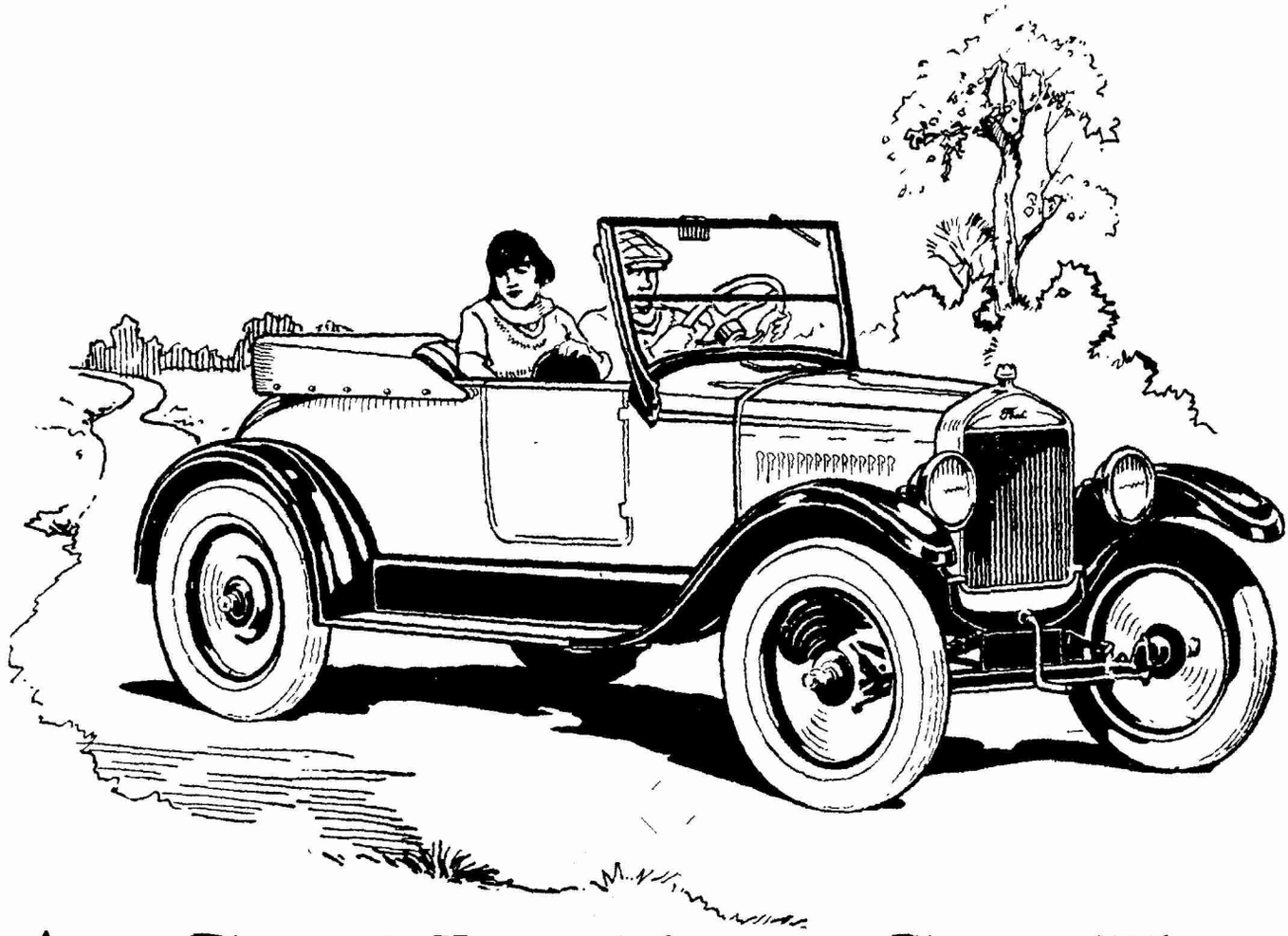

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China's Exports to U. S. for May, 1926

The following table issued by Edwin S. Cunningham, American Consul-General, Shanghai, China, shows the quantities and values of declared exports from Shanghai, China, to the United States for the month of May 1926 and the period from January 1, 1926, to May 30, 1926.

VALUE IN UNITED STATES CURRENCY

Articles	Unit of Quantity	May 1926 Quantities	May 1926 Values	Total for year up to May 31, 1926. Quantities	Total for year up to May 31, 1926. Values
Group 0—Animals and Animal Products, except Wool and Hair (Class 101—9939)					
Meats					
Egg albumen dried	lbs.	202,600	132,792	560,000	364,803
,, ,, fro.	,,	150,000	16,825	270,640	32,430
,, whole, dried	,,	.....	.....	.....	.....
,, ,, fro.	,,	.....	.....	130,000	20,776
,, yolk dried	,,	10,000	2,762	10,000	2,762
,, ,, fro.	,,	33,000	4,381	530,826	88,205
Hides and Skins, Raw (Except Furs)					
Buffalo	pcs.	3,100	22,180	15,530	115,224
	lbs.	129,773		626,208	
Cow	pcs.	.....	.....	381	2,376
	lbs.	.....		4,767	
Deer and doe	pcs.	15,000	6,296	23,397	10,632
Goat and kid	,,	998,979	664,835	3,171,824	3,094,515
Sheep & lamb	,,	11,598	20,508	187,914	346,493
Hides and Skin, Dressed					
Sheep and lamb	pcs.	2,000	4,143	6,346	7,039
Moufflon	,,	.....	.....	2,000	4,081
Furs, Dressed and Undressed					
Fox	pcs.	.....	.....	971	4,163
Hare & rabbit	,,	73,000	8,056	219,556	53,850
Leopard	,,	520	6,793	572	7,523
Marmot	,,	.....	.....	31,871	45,425
Pahmi	,,	1,000	846	6,000	5,887
Raccoon	,,	13,000	30,240	13,000	30,240
Squirrel	,,	.....	.....	52,885	8,584
Weasel	,,	155,789	233,700	1,129,884	1,896,943
Wolf	,,	.....	.....	.....	.....
All others	,,	175	583	41,850	59,350
Manufactures of Furs and Fur Skins					
Sheep & lamb crosses	pcs.	.....	.....	652	4,464
Goat & kid crosses	,,	.....	.....	4,399	8,396
Dogskin mats	,,	1,696	5,554	10,035	20,024
Miscellaneous Animal Products					
Feather	lbs.	149,370	55,937	774,591	357,258
Intestines	,,	137,987	100,045	637,452	615,343
			$1,316,476		$7,206,786
Group 1—Vegetable Food Products, Oil Seeds, Expressed Oils and Beverages (Class 10311—17801)					
Fruits and Nuts					
Peanuts, shelled	lbs.	.....	.....	12,000	555
Oil Seeds and Vegetable Oils and Fats					
Sesame seeds	lbs.	.....	.....	224,100	10,581
Vegetable tallow	,,	.....	.....	.....	.....
Wood oil	gallons	28,500	30,148	38,508	41,486
Cocoa, Coffee, Tea and Spices					
Tea	lbs.	37,414	8,128	294,108	51,346
			$38,276		$103,968
Group 2—Other Vegetable Products, except Fibers and Wood (Class 20011—29616)					
Gums, Resins & Balsams, N. E. S.					
Camphor, crude	lbs.	15,195	7,202	80,756	39,076
Crude Drugs & Essential Oils, N. I. S.					
Camphor oil	lbs.	.....	.....	.....	.....
Rhubarb	,,	11,200	3,070	23,499	6,414
Dyeing & Tanning Materials of Vegetable Origin					
Gallnuts	lbs.	56,600	5,455	269,500	24,836
Tobacco					
Tobacco leaf	lbs.	.....	.....	1,885	357
			$15,727		$70,683
Group 3—Textiles (Class 30011—39593)					
Cotton					
Cotton, raw	lbs.	.....	.....	.....	.....
,, waste	,,	30,556	3,350	214,181	20,389
,, laces & embroideries		.....	163,816	.....	933,703
,, misc. manufactures		.....	.....	.....	160
Other Vegetable Fibres, N. E. S.					
Hats, fiber	doz.	336	5,496	1,271	17,590
,, rush	,,	750	438	26,342	22,266
,, straw	,,	.....	.....	4,240	8,810
Straw goods		.....	4,461	.....	23,446
Mattings	sq. yds.	.....	.....	.....	.....
Wool and Hair					
Carpets, wool	sq. yds.	512	4,549	2,920	25,559
Wool, sheep's	lbs.	233,628	42,824	545,105	118,012
Hair, human, Asiatic	,,	39,370	15,387	113,015	42,664
,, nets human	,,	3,604	29,402	19,561	176,803
,, stump, human	,,	136,815	54,084	458,286	177,087
Silk					
Silk, raw	lbs.	167,122	686,298	2,075,306	10,589,639
,, wild	,,	175,577	430,719	642,210	1,629,934
,, waste	,,	208 220	145,862	1,754,169	1,254,393
,, piece goods	,,	2,033	15,835	37,148	281,850
,, pongee	,,	22,261	73,096	140,856	452,831
,, cocoons, pierced	,,	.....	.....	17,386	21,122
,, misc. manuf.	,,	.....	3,411	.....	14 935
			$1,679,028		$15,811,293
Group 4—Wood and Paper (Class 40181—48724)					
Manufacture of Wood					
Wooden ware		.....	1,016	.....	3,636
Bamboo manufactures		.....	207	.....	4,584
Lacquerware		.....	.....	.....	2,048
Books and other Printed Matter					
Books		.....	732	.....	7,936
Paper, Except Printed Matter					
Parasols	pcs.	16,824	3,593	120,019	24,150
			$5,548		$42,354
Group 5—Non-Metallic Minerals (Class 50011—59590)					
Clay And Clay Products					
Chinaware, Porcelain, Pottery, etc.		.....	2,239	.....	6,943
Other Non-Metallic Minerals					
Jadeware		.....	2,653	.....	7,104
Soapstone ware		.....	3,909	.....	26,328
			$8,801		$40,375
Group 6—Ores, Metals and Manufactures, except Machinery & Vehicles (Class 60011—69999)					
Aluminium, Antimony and Cobalt					
Antimony, crude	lbs.	.....	.....	.....	.....
,, oxide	,,	.....	.....	56,000	7,597
,, regulus	,,	224,000	25,314	1,164,000	178,879
Copper, Brass and Bronze					
Brass & manufactures of		.....	18,363	.....	107,507
Precious Metals, Jewelry and Plated Ware					
Gold bars	ounces	.....	.....	.....	.....
			$43,677		$293,983
Group 7—Machinery & Vehicles (Class 70011—79361)					
			NIL		*NIL*
Group 8—Chemicals (Class 80021—87519)					
Chemicals					
Musk	lbs.	10	$1,505	66	$13,760
Group 9—Miscellaneous (Class 90101—99999)					
Art, works					
Art, works of		.....	10,603	.....	74,484
Miscellaneous					
Bristles	lbs.	13,333	8,616	204,628	196,547
Household & personal effects		.....	.....	.....	3,536
Unenumerated articles		.....	451,583	.....	1,201,117
			$470,802		$1,475,684
			$3,579,839		$25,058,886

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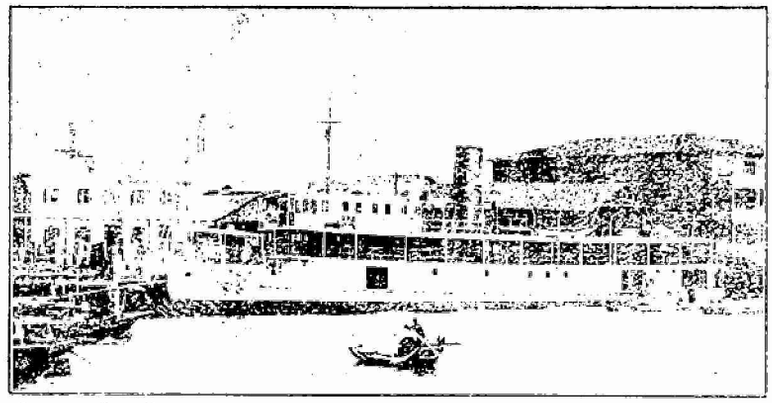

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RECAPITULATION	*Total for year up to May 31, '25.*	*Total for year up to May 31, '26.*
Group 0—Animal and Animal Products, except Wool and Hair,	$7,596,120	$7,206,786
Group 1—Vegetable Food Products, Oil Seeds, Expressed Oils and Beverages,	235,634	103,968
Group 2—Other Vegetable Products, except Fibres and Wood,	115,793	70,683
Group 3—Textiles	14,682,997	15,811,293
Group 4—Wood and Paper	70,112	42,354
Group 5—Non-Metallic Minerals	32,482	40,735
Group 6—Ores, Metals and Manufactures, except Machinery and Vehicles	397,796	293,983
Group 7—Machinery and Vehicles	NIL	NIL
Group 8—Chemicals	43,732	13,760
Group 9—Miscellaneous	562,412	1,475,684
Grand Totals U. S.	$23,737,078	$25,058,886

Vice-President of National City Bank of New York Here

Lee E. Olwell, vice-president and executive assistant of the National City Bank of New York, one of the leading financial institutions of the United States is in Shanghai in connection with a general inspection of the branches of the International Banking Corporation, a subsidiary organization of the National City Bank. Mr. Olwell has already been in Europe, India, Egypt, Straits Settlements, the Philippines, Hongkong and Canton and from Shanghai expects to proceed to Hankow, Peking, Tientsin and Harbin after which he will spend some time in Japan and then return to the United States.

Extraterritoriality Edition Out Next Week

The Special Extraterritoriality edition of *The China Weekly Review*, containing the most complete survey of courts and court administration in China yet attempted, will be published and mailed free early next week to all regular subscribers of *The China Weekly Review.*

Extra copies of this special edition may be obtained direct from the publishers or from book-stores at Mex $ 1 per copy.

The edition contains approximately 100 pages and is printed on book paper with a two-color cover. It is illustrated.

Captain Robert Dollar On Trip Around the World

When the *Preident Grant*, the first ship to fly the Dollar flag under the terms of the recent purchase of the five Admiral Liners from the United States Shipping Board by the Dollar interests, steamed out of Seattle on June 15, she carried with her Captain Robert Dollar, who, accompanied by Mrs. Dollar, is due to arrive in Shanghai on July 2 on another round-the-world cruise.

Mr. O. G. Steen, local manager of the Dollar Line, will proceed to Yokohama, to meet Captain and Mrs. Dollar. Captain Dollar, incidently, will be 83 years old on his next birthday.

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Men and Events

Joseph Heidt, Jr., has arrived in Shanghai to join the staff of Equitable Eastern Banking Corporation.

Dr. D. Duncan Main of the Church Missionary Society Hospital at Hangchow, Chekiang Province, celebrated his seventieth birthday on June 10.

A new Grand Hotel to replace the one destroyed in the earthquake is to be constructed in Yokohama, the cost of the new structure to be Yen 1,250,000

En Dzao Yen, a graduate of Columbia University, New York, has returned to China and has accepted a position on the faculty of Fuh Tan University of Kiangwan, Shanghai.

J. Y. Gale, advertising manager of the Manchurian Division of the British American Tobacco Co., was in Shanghai for several days last week before sailing for a holiday to the United States.

Mr. Erin F. McEwen, formerly of the staff of *The Japan Advertiser* (Tokyo), spent several days in Shanghai last week prior to his departure for Dairen. Mr. McEwen intends to return to America by way of Russia.

A young women in Los Angeles has been adjudged insane because she does not want to wear clothes. That is always the fate of those who are a generation ahead of their time.——*North China Daily News.*

P. H. Dunbar, of the Amos Bird Company, left Shanghai last Monday, June 14, for the United States on the *Empress of Canada.* He expects to be away from Shanghai about six months.

Mason Turner, American Vice-Consul at Columbo, Ceylon, accompained by his sister, Miss Margaret Turner, was a passenger on the *President Lincoln* last week for the United States.

The picture of the late Dr. John Burrus Fearn, which was published in last week's *Review*, was obtained through the courtesy of *The Shanghai Times*, which favor we acknowledge with thanks.

Mrs. Margherita Stella Stephen, widow of the late A. G. Stephen, former manager of the Hongkong and Shanghai Banking Corporation, was married on June 14 to Dr. Eduard Birt, prominent German physician of Shanghai.

Laurence E. Bradsher, of the Universal Leaf Tobacco Company, returned to Shanghai last Wednesday, June 9, from a six weeks' visit to Hankow. Mr. M. Doggett, of the same company, returned to Shanghai on the *President Lincoln* last Tuesday, June 8, from a trip to Manila.

The Chinese Dragon Boat Festival last Monday, June 14, was generally observed by the Chinese people with the customary festivities. All the banks, Consulates and courts were closed for the day and many shops also suspended business during the afternoon.

Mr. and Mrs. C. D. Culbertson returned to Shanghai last week from their wedding trip to Tsingtao. The marriage of Mr. Culbertson and Miss Loraine Fleming, which was solemnized last month, was one of the largest home weddings of the year in Shanghai.

J. F. Malone who has been in Shanghai for several months representing leading producers of leaf tobacco of New Orleans, La., expects to return home shortly. Mr. Malone probably will return to Shanghai next year to reside here permanently.

A special "club" tiffin will be held at the Union Club of China, 38 Avenue Edward VII, on Tuesday, June 22, at 12:30 o'clock. Guests of honor will be Judge Peter Grain of the British Supreme Court and Judge Milton D. Purdy of the United States Court for China.

Rev. C. G. Sparham of the China Advisory Council of the London Missionary Society of Shanghai, departed last week for a year's leave of absence in England. His home address will be care the London Missionary Society, 48 Broadway, Westminster, London, S. W. 1.

The annual commencement day exercises at William's College, of Shanghai is scheduled for Saturday, June 19 at 10 o'clock in the morning. The exercises will be held in the new buildings which have been constructed at Hsin Lunghwa on the Minghong road beyond the French Concession.

Divorces were granted in Tientsin at the sitting of the U. S. Court for China on June 7 to Philis G. Eastwick, connected with the Chinese-American Bank of Commerce at Peking and to John D. Moore, veterinary surgeon in Tientsin. The plaintiffs in both cases charged desertion as the cause.

H. Louey Pang, proprieter of H. Louey Pang and Company of 172 Bourke Street, Melbourne, Australia, is in Shanghai on business connected with his firm. The company is interested in the import and export business between China and Australia. Mr. Pang is staying at the Palace Hotel in Shanghai.

The Fearn Building Fund of the Community Church, Shanghai, has now reached a total of Mex. $1,300, according to a report of the Treasurer of the Church last week. The Fund is being contributed by friends of the late Dr. J. B. Fearn, for several years a member of the Board of Governors of the Church.

Julean Arnold, American Commercial Attache in China, returned to Shanghai this week after a brief visit in Peking. Mr. Arnold expects to remain in Shanghai for five or six months. Mrs. Arnold and their children, who have been living in Berkeley, Cal., for the past year will return to China in July.

The International Funeral Directors of China have opened an undertaking establishment at 71 Kaiochow Road, Shanghai, for the purpose of conducting funeral work. Mr. R. Scott, who has been associated for several years with the Frank E. Campbell Funeral and Undertaking Establishment of New York City, has been appointed as managing director.

Carmi A. Thompson, head of a commission recently appointed by President Coolidge to investigate conditions in the Philippine Islands will arrive in Shanghai on the President Grant which sailed from Seattle on June 15. Since Mr. Thompson's appointment, there have been rumors in political circles in the United States that he is to succeed Leonard Wood as Governor-General of the Philippines.

Mrs. John Leighton Stuart, wife of the President of Yenching University, Peking, died on June 5 at their home in Peking. Mrs. Stuart was born in New Orleans and came to China in 1904 with her husband to engage in missionary work at Hangchow, Chekiang Province. Later they moved to Nanking where Dr. Stuart was connected with the Theological Seminary. They moved to Peking in 1920 when Dr. Stuart was appointed president of Yenching University.

Jabin Hsu, former assistant and Chinese editor of *The China Press* at Shanghai has been appointed editor-in-chief of *The Eastern Times* published in Tientsin. *The Eastern Times* was founded several years ago in Peking by Putnam Weale, but owing to political difficulties during the occupation of the Capital by the Kuominchun, the paper was moved to Tientsin. Mr. Hsu, who has been in the North for several weeks, expects to return to Shanghai soon to wind up his affairs here.

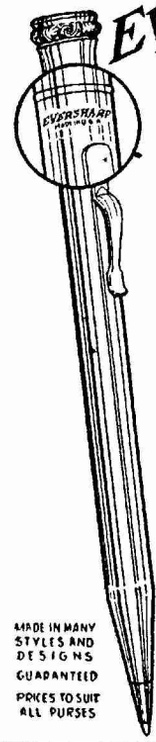
Rev. Fr. Kennelly, S. J., for many years connected with the Siccawei Catholic Institution in Shanghai, died in Shanghai on June 15. Father Kennelly was born in Ireland and was 68 years of age at the time of his death. He came to China about forty years ago and first was connected with the St. Francis Xavier School. In addition to his scientific studies of astronomy, he was well known in China through his works, "Researches into Chinese Superstitions," the seventh volume of which recently was published.

Judge Milton D. Purdy of the U. S. Court for China, Thurston R. Porter, U. S. Marshal; Mrs. Porter, Court Reporter and Miss Sarah Tuttleman, secretary to Judge Purdy, returned from Tientsin last Sunday, June 13, where they have been holding a session of the American Court for the last two weeks. Leonard G. Husar, prosecuting attorney, did not return with the party, but is remaining in Peking on ten days' vacation with Major C. P. Holcomb, Shanghai attorney, and Captain W. I. Eisler, representative of the United States Shipping Board.

The June issue of the *Oriental Engineer*, official journal of the Association of Chinese and American engineers, contains among other material, the following articles, "China, the Land Where Builders Get Insomnia," by S. M. Dean; "Knights of the Laboratory," by E. B. Grant; "Making China Effective in War," by R. Raphaelson; "The Engineer, Not the Forester, Will Rout Famine from China," by Walter H. Mallory; Frank H. Clark of Peking is president of the Association, and Rayna Prohme also of Peking is editor of the Journal.

Dr. Manley O. Hudson of the Lay School of Harvard University is planning a trip to China early next year for the purpose of making a study of international courts and extraterritorial jurisdiction. Dr. Hudson was professor of law at the University of Missouri from 1910 to 1923 since which time he has been a member of the faculty of the Harvard Law School. He served for a time on the Missouri Children's Code Commission and on the Commission on Uniform State Laws and has been attached to the office of the Solicitor General of the United States. In 1918-19 he served on the international law division of the American Commission to Negotiate Peace, following the World War. From 1919 to 1921 he was a member of the legal secretariat of the League of Nations and has served as special assistant to the American Embassy at Paris. He is a member of the American Bar Association, the American Society of International Law, etc.

INTERNATIONAL JUSTICE SUSTAINS THE EVERSHARP



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37-071

Generals While You Wait

There was a time in the dim-distant past when the soldier was a despised individual in the Chinese scheme of things, but not so anymore, if one is to believe the stories told by Chinese photographers in Shanghai. A few days ago the manager of an American company in Shanghai noticed one of his office boys gazing in considerable admiration at a large sized photograph of a Chinese general. At least he assumed the man in the picture to be nothing short of a general for he wore sufficient gold braid and medals to be a "super-tuchun" or military governor of a half dozen provinces.

Number One Office Boy Becomes a General

"Who's picture is this," the manager asked.

"This belong me," the office-boy replied, with justifiable pride. And so it was Wong the office-boy all dolled up in the uniform of a modern militarist of high rank, complete with plumed headgear, sword and decorations. It seems that Chinese photographers in Shanghai have provided themselves with complete sets of uniforms of varying sizes so that any ambitious office boy, Number One house boy, or anybody else who has the urge may have his photograph taken in the uniform of the general—to see how it feels—so to speak. And they are doing a considerable business, further inquiry showed.

Freyn Engineering Company Starts House Organ

The Freyn Engineering Company of Chicago, well known in the Far East, has started a new house magazine known as *Freyn Design*, the leading article of which is devoted to the construction of an extensive blast furnace, designed and erected by the Freyn Company at Ironton, Utah. The new plant, which was opened on April 30, 1924, produced 423 tons of basic iron the first year with a coke consumption of 8,031 pounds. This is said to be the "farthest west" plant to be built in the United States. Another article deals with the construction of a plant for the Mystic Iron Works at Everett, Mass., and in addition there is an article entitled "Electric Roll Heater Facts," and other information of interest to engineers. Copies of the magazine, which is well printed and illustrated, may be obtained by addressing Henry J. Freyn, President, Freyn Engineering Co., Chicago

Shanghai Alumni of Missouri Journalisn School Organize

The University of Missouri School of Journalism Alumni Association, Shanghai Branch, was formed last Friday evening, June 11, when ten graduates and former students of the University were entertained at dinner by Mr. P. Y. Wang, assistant business manager of *The Shun Pao*, Chinese daily newspaper.

Those present at the dinner were: Messrs. J. B. Powell, editor and publisher of *The China Weekly Review;* Thomas F. Millard, correspondent of *The New York Times;* P. Y. Wang, of *The Shun Pao;* E. F. McEwen, formerly of the *Japan Advertiser* (Tokyo) staff, who is leaving for the United States by way of Russia after three years in Japan; Maurice Votaw, instructor in journalism at St. John's University, Shanghai; Horace L. Felton, of the *North China Daily News* staff; Norman J. Ulbright of *The China Weekly Review*, and Misses Louise B. Wilson, editor of the Women's Page, the *North China Daily News*; Eva Chang, publicity department, Shanghai Y. W. C. A., and editorial work, Chinese women's magazine and Margaret C. Powell, publicity work, British-American Tobacco Co., motion picture department.

Mr. P. Y. Wang was elected president of the organization and Miss Louise B. Wilson secretary-treasury.

Mark Moody, Inc., Opens New Showroom

Police assistance was required to keep the crowds in control at the formal opening of the new showroom of Mark L. Moody, Inc., which took place last Monday, June 14, at the corner of Avenue Edward VII and Szechuen Roads, Shanghai.

A special radio program was broadcast by the company and special radio music was heard inside the showroom. Refreshments were served throughout two days and two hundred toy motor cars and trucks, imported specially by Mr. Moody, were given away to children accompanied by their parents.

The showroom, which is believed the largest in China, has adequate space for 22 large cars and numerous show cases at the same time. The room is more than 100 feet long and nearly as wide. Plate glass windows are installed on three sides. For the convenience of the public a lounge is situated between mirrored columns in the center of the floor. A public telephone, newspapers and magazines, easy chairs, settess, and smoker's perquisites are provided. The general offices of the company are at the rear of the showroom.

A huge horseshoe, made up of several hundred fresh roses and carnations, was presented by Mr. Chrysler, president of the Chrysler Motor Corporation. Mr. B.A. Doran, special factory representative for the Chrysler company, was present at the opening. The Packard Motor Co., New York, sent a telegram congratulating the company and paying a tribute to Mr. Moody's "American energy and faith in China."

Pittman Silver Bill Passes U.S. Senate

Without recording the vote, the Senate, recently, passed the Hittman Bill, directing the purchase of 14,500,000 ounces of silver at G.$1 per ounce, but immediately made the Bill the subject of reconsideration when Senator Carter Glass, former Secretary of the Treasury, who opposed the measure, protested that it had been passed while he was absent from the Senate chamber.

The bill is an aftermath of the war and would continue the 1910 policy to stabilize the price and encourage the production of silver.

Westinghouse Has Good Year

A net income of $14,122,000, after expenses, depreciation, taxes and interest, is reported for the year ended March 31 last by the Westinghouse Electric and Manufacturing Company, as against $15,324.364 in the preceding year. Sales during the year were the largest in the company's history, the report says, being $166.006,800, against $157,880,292 in 1925. According to the report the net income equaled 11.9 per cent. on the capital stock of $118,503,150.

Costs of sales, depreciation, expenses and taxes aggregated $151,771,938, as against $144,242,065 in the preceding year. Other income was $2,295,363, against $4,-203,179 in the year before. Interest was $2,468,223, compared with $2,517,042.

Whiteaway, Laidlaw & Co., Ld

The 18th annual report of the directors of Whiteaway, Laidlaw & Co. states:—

The accounts show a profit of £128,492 0s. 1d., after providing for the payment of the preference dividends to December 31, 1925, and an interim dividend on the ordinary shares paid on December 1, 1925, there is a balance of £107,-707 6s. 2d. which the directors recommend shall be appropriated as follows:—

To pay a final dividend of 9 per cent., making 14 per cent. per annum, free of tax, on the ordinary shares.

To pay to the trustees of the employees' provident fund £1,000; and to carry forward the balance of £53,663 2s. 2d. to the next year's account.

The director who retires by rotation, in accordance with the Articles of Association, is Mr. J. H. Lewes, who, being eligible, offers himself for re-election.

The auditors, Messrs. Cooper Brothers & Co., retire, and offce themselves for re-election.

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Grover Clark, Editor

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2 Mei Cha Hutung

Peking, China

The Week in the Far East

Reports from Peking during the week under review indicate that negotiations which have been carried on at Tientsin between representatives of Marshal Wu Pei-fu and Chang Tso-lin have practically asured a conference between the two former rivals, probably at Peking.

Marshal Chang Tso-lin arrived in Tientsin during the past week and after conferences will go on to Peking, arriving at the Capital about the same time as Marshal Wu Pei-fu. As a result of negotiations which were conducted at Tientsin by representatives of the two leaders the following arrangements are reported to have been made:

Marshal Wu to Control Peking Politics

Both factions shall cooperate in military operations.

Dr. W. W. Yen's Cabinet shall be maintained but not in the form of a reinstatement of the Ministry existing in the 13th Year of the Republic.

Political affairs of the Central Government shall be presided over by Marshal Wu Pei-fu.

In making the foregoing arrangements, representatives of Marshals Chang Tso-lin and Wu Pei-fu are reported to have pledged themselves that in case the arrangements in question meet with disapproval by their masters, they would resign their posts.

Seemingly the conferences at Tientsin have sounded the death-knell of the W. W. Yen Cabinet which has been functioning valiantly with only the Premier acting. Although Wellington Koo has expressed his willingness definitely to assume the duties of the Ministry of Finance, it is altogether likely that the Yen Cabinet will come to an end shortly. Is is said that under the terms of the agreement reached at Tientsin, the Yen Cabinet will be allowed to carry on for several weeks longer after which Marshal Wu Pei-fu will assume the task of naming a new government.

In commenting upon the possible outcome of the conference between Marshals Chang Tso-lin and Wu Pei-fu, the *Peking & Tientsin Times* (Tientsin) has this to say:

"The situation at the moment is one of the utmost gravity, and unless the two Warlords can agree upon a common policy and plan of campaign, there is a serious risk that the "alliance" for the overthrow of Bolshevism in China will crumble to pieces.

Outlook Not Promising

"The outlook is not promising for the reunification of China at the present moment. Marshal Sun Chuan-fang, who has established his headquarters at Nanking, and exercises control over the Provinces of Fukien, Chekiang, Kiangsu, Kiangsi and Anhwei, has just proclaimed his independence, and announced that he will tolerate no interference from Chinese or Foreigners. Marshal Wu, at the moment, can only claim control over Hupeh, Honan, and parts of Chihli and Hunan. The greater part of Chihli Province is occupied by Manchurian and Shantung forces. A war is in progress in Hunan. And General Yen Hsi-shan, who has now thrown in his lot with the anti-Kuominchun forces is unquestionably in difficulties in the North of his province—Shansi. A struggle is now in progress in Szechwan, between Marshal Wu's ally, General Yang Sen, and other militarist groups. Marshal Chang Tso-lin and his former subordinates, hold the whole of Manchuria, a large protion of Chihli, and Shantung Province. The Kuominchun are firmly entrenched in Inner Mongolia, Chahar, Suiyuan, and Kansu, and have not yet been dislodged from Shensi. In the South, General Tang Chi-yao rules the "independent" provinces of Yunnan and Kweichow, while the Kuomintang claim that the authority of the "Nationalist Government" extends over Kwangtung, Kwangsi, and part of Hunan. It may therefore be said that for practical purposes China must be considered to be divided up into five politico-military camps, namely the Provinces controlled by Marshal Chang Tso-lin, Wu Pei-fu, and Sun Chuan-fang, the Kuominchun, General Tang Chi-yao, and the Kuomintang. The allegiance of Hunan and Szechwan has yet to be decided. The strength of several of these groups is an uncertain factor. It cannot, for instance, be predicted with any certainty to what extent Generals Chang Tsung-chang and Li Ching-lin would accept orders from Mukden, or how far General Yen Hsi-shan would recognize the authority of Marshal Wu Pei-fu. And the rivalries of the Manchurian and Chihli factions, and the attitude of Marshal Sun Chuan-fang, suggest that any serious attempt at reunification may result in strife between the forces which at present profess to be arrayed against the Kuominchun. It is reported that Marshal Wu Pei-fu's dramatic appearance at Paotingfu, in advance of his own bodyguard, and his summary dismissal of General Chin Yun-ao, were occasioned by the discovery of an intrigue for an alliance between the latter, Marshal Sun Chuan-fang, General Lu Chung-lin of the Kuominchun, and General Li Ching-lin, the ex-Tupan of Chihli.

Unity Difficult at Present

"It is difficult to imagine any plan by which a majority of the militarists in North and South China can be brought to concur, and co-operate, in the reorganization of a Central Government. The Kuomintang are, of course, utterly irreconcilable. They and the Kuominchun are both believed to have received large consignments of arms and munitions, and other assistance, from the Soviet, during the past few weeks. And though the much-advertised "Northern Expedition" may correctly be regarded as so much "hot air" by Marshal Wu, the relations of the "Allies" towards Marshal Sun Chuan-fang and the Kuominchun, present problems of considerable difficulty and no little urgency. No Government can be established in Peking, and even pretend to function as the Government of China, while a hostile army is firmly entrenched within thirty miles of the City, and may, within a few hours, emerge from the Nankou Pass, and surround or occupy the Capital. Moreover, the complete elimination of the Kuominchun which would be a formidable task under any circumstances, can hardly be attempted with the requisite energy and force while the intentions of Marshal Sun Chuan-fang remain in doubt. A position of "stale mate" appears to have been reached, and it will require more conciliation, tact and statesmanship than any of the militarists have ever yet displayed, to find a solution of the present impasse. The tendency at the moment appears to be the disruption of China into half a dozen or more military satrapies, none of which is prepared to accept orders from, or even extend formal recognition to, any Central Government, however constituted. All real incentive towards unity appears to be lacking. None of the Warlords appears to have anything to gain by submission to a Central Government that he could not secure by retaining his independence, and forming temporary alliances as required, to offset the danger of any combination against him. Had the Kuominchun been swiftly followed up and decisively defeated, after their withdrawal from Lanchow and Machang, the position would have been different. A great opportunity was lost, and it is unlikely to recur in the near future.

Will Complicate Foreign Relations

The disruption of China into independent military satrapies will, of course, seriously complicate China's foreign relations. It will be necessary for the time being to abandon the pretence that Peking is the Capital of China, for it would obviously be ridiculous to continue treating with a handful of irresponsible Chinese in that City in regard to questions which must, in reality, be settled in Mukden or Shanghai, in Canton or Yunnan.

For all practical purposes the Legations in Peking might just as well be withdrawn, unless their sole function is to be the co-ordination of the policy of their various Consulates in different parts of China. Yet there will be a natural reluctance on the part of the Treaty Powers to face as a fact the disappearance of the Central Government, and to recognize the break-up of China into artificial administrative units based, not upon any public opinion or racial animosity, but solely upon the ambitions of rival militarists. China needs unity to realize her national aspirations. It is unthinkable that she can permanently break up into a series of States which have no definite boundaries, natural, economic, or linguistic. Marshal Chang has repeotedly announced his intention of withdrawing beyond the Wall, after a settlement. It seems probable that he will be constrained to do so without achieving his object. But it is inconceivable that a situation in which important trunk railways are split into halves or even thirds, and in which every form of trade and transport is hampered by military interference, will be regarded as satisfactory, either in China or abroad. The break-up of China is no longer an event to be appreh ended; it is a fact to be faced."

Trade May 30 for a Loan? No!

Some excitment was caused during the week in Chinese circles by rumors to the effect that Dr. W. W. Yen is now proposing to barter the settlement of the May 30 incident with the Powers for a large foreign loan to finance his cabinet and to compensate the families of the victims during the incident. Many public organizations in Shanghai have held meetings to discuss the matter and passed resolutions, condemning the action of Dr. Yen. It is not certain how the rumor was started and as yet it has not been confirmed.

"Too Much Delay," Says Strawn

According to a *United Press* dispatch from Peking, Silas H. Strawn American chief delegate to the Peking Tariff Conference, who has always opposed the delay of the conference, on June 11 emphatically demanded the bringing into effect the provisions of the agreement entered into at the Washington Conference regarding tariff increases in China. Mr. Strawn stated that there has been over-much delay and

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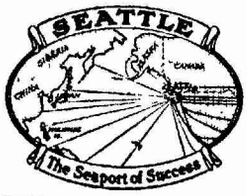

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added that he believed the conference should proceed with its work as rapidly as possible and bring about some kind of conclusion. Japanese delegates who previously has obtained one postponement of the conference, again sought a postponement and their position is supported in some measure by other Powers reluctant immediately to enter into any binding agreement, largely on the grounds of the unsettled political situation in Peking. It is known that several Powers have urged the calling off of the entire affair, putting the blame on China, or try to come to some agreement with the nebulous elements that constitute the real government that is operating with W. W. Yen as stalking horse. It is said that the American representative would listen to no argument not based on carrying out the Washington pact.

W. W. Yen Cabinet Totters

According to latest report from Peking, the resignation of W. W. Yen from the regency premiership seemingly is only a matter of hours although new shifts in the state of affairs may lengthen somewhat his tenure of office. It is reported that while Mr. Yen was resting on last Sunday, June 11, in the Western Hills his friends drafted a document of resignation. This may go forth in the form of a circular telegram soon.

Reports from Tientsin indicate that Marshal Chang Tso-lin has given up the plan to confer directly with Marshal Wu Pei-fu at Peking and an immediate consequence of this has been to make the already chaotic situation worse.

In some quarters while it is admitted that Yen is determined to submit his resignation it is thought this may be refused with the result that Yen will carry on somewhat longer although retiring within a few weeks.

Plans are taking form for elections throughout the provinces of a new parliament.

From the Chinese Press

Seoul, Korea, June 15.—Some 200 Korean students who were arrested for distributing inflammatory literature at the state funeral of the Late Prince Li, former Korean king, have been released with the exception of 30 leaders who are still being detained.

Tsingtao, June 15.—A proposal for solving the financial difficulties of the Kiaochou-Tsinanfu Railway has been sent to the Japanese Foreign Office, but no details are available here regarding the content of the proposal.

Tokyo, June 15.—Shao Yang Yuen-lo, well known Chinese actor and party now visiting in Japan, was considerably embarassed today by having its effects seized because of non-payment of hotel bills. As a result their future engagements have cancelled.

Peking, June 15.—As Viscount Willingdon, head of the British Boxer Indemnity Commission now in China has been appointed Governor-General of Canada, it is reported that the Commission will shortly wind up its work in China and return home. The Chinese members of the Commission, according to report, will proceed to England in July for a final conference and recommendation covering the appropriation of the balance of the British portion of the Boxer fund.

Peking, June 15.—Marshal Wu Pei-fu has asked Marshal Sun Chuan-fang of Kiangsu and Chekiang Provinces to remit the sum of $1,500,000 from the salt revenue to Peking for use in the anti-Kuominchun campaign.

Hankow, June 15.—Marshal Wu Pei-fu is demanding that the sum of $2,700,000 be remitted from Hankow for use in the Allied campaign against the Kuominchun.

Peking, June 15.—Owing to the hopelessness of the financial situation it is reported that Dr. W. W. Yen, acting premier has gone to the Western Hills for a needed relief from official duties.

Shanghai, June 15.—All motormen and conductors of the native tramway went on strike yestered as protest against the actions of a group of Chinese marines, who beat up one of the conductors because the car on which they were riding was delayed.

Peking, June 15.—The Government was only able to raise the sum of $650,000 for payment of administrative expenses for the Annual Dragon Boat Settlement period.

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Peking, June 14,—It is now reported the Wu Pei-fu and Chang Tso-ling combination will drop Dr. W. W. Yen and support Sun Pao-chi for the premiership.

Peking, June 9.—Although Marshal Sun Chuan-fang, military governor of Kiangsu and Chekiang Provinces, has sent his representative, Van Hung-tu, to Tientsin to observe the efforts at reconciliation on the Part of Marshals Chang Tso-ling and Wu Pei-fu, the Lower Yangtsze Militarist has not as yet indicated his intentions in respect to the new arrangement.

Kaifeng, Honan Province, June 9.—It is reported here that 27 villages have been looted and burned as a result of the activities of the red spear society, a semi-bandit organization.

Shanghai, June 9.—It is reported that informal negotiations have been taking place between the British, American and Japanese consuls, on behalf of the Consular Body and Dr. V. K. Ting, mayor of the Special Administrative District here, and Mr. Hsu Yuan, commissioner of foreign affairs on the subject of the rendition of the Mixed Court. It is reported that civil cases between Chinese will be "rendited" but that the subject of criminal cases is still under consideration.

Shanghai, June 9.—Dr. C. C. Wu, Minister of Foreign Affairs of the Canton Government, who was ousted by the radical elements led by Gen. Chiang Kai-shek, arrived in Shanghai today.

Shanghai, June 9.—The Chinese General Chamber of Commerce has sent a telegram to all of the leading militarists including Chang Tso-ling, Wu Pei-fu demanding the immediate resumption of railway transportation, claiming that the suspension of the railways is causing great losses to the Chinese merchants.

Peking, June 10.—A special effort is being made to wind up the Tariff Conference by June 12, the chief work now being concerned with establishing standard prices for the various imports into China.

Chengtu, Szechuen, June 10.—Mrs. Bray, wife of a Canadian missionary here was murdered by a mob of Chinese on one of the public streets of the city.

Changchun, Manchuria, June 10.—Owing to the lack of rainfall in this district there is likely to be a partial failure of the soyabean crop.

Peking, June 10.—The troops of Generals Tien Wi-chin and Wang Wei-yu of the Allied army, have started moving toward Huailai for the purpose of attacking the Kuominchun troops.

Peking, June 10—The financial situation continues serious, there being little money available for the payment of salaries in the various government departments.

Shanghai, June 10.—The Chinese National Young Men's Christian Association has appointed forty delegates to attend the international convention of the organization on August 1 this year.

Shanghai, June 10.—An athletic meet to be participated in by athletes from Chekiang and Kiangsu Provinces is to be held here shortly.

Peking, June 11.—Owing to the general confiscation of the salt revenues by the militarists in the various provinces, a joint protest is being framed by the British, French and Japanese Ministers.

Tientsin, June 11.—It now appears that the basis of cooperation between Marshals Chang Tso-lin and Wu Pei-fu will be somewhat along the following lines: (1) Chihli and Fengtien will cooperate in a military way against the Kuominchun; (2) The W. W. Yen cabinet will be maintained but not as a continuation of the Tsao Kun Government; (3) Political affairs in the Capital shall be presided over by Wu Pei-fu.

Peking, June 11.—The Union of Chinese Chambers of Commerce decided to telegraph the chambers of commerce in all parts of the country urging that the Tariff Conference be continued until the work is finished to China's satisfaction.

Tsingtao, June 11.—Marshal Chang Tso-ling has requested General Chang Chung-chang of Shantung Province to provide railway cars for the transportation of troops of the Allied armies against the Kuominchun. It is reported that General Chang Chung-chang will shortly proceed to Tientsin to confer with Chang Tso-ling.

Hankow, June 11.—The Chihli forces in Hunan under General Yeh Kai-hsin, according to reports received here today have withdrawn to Hungshan and Paoching. General Chao Heng-ti, former tuchun of Hunan, has been requested to hurry back to his province to bring about a reconciliation of the opposing forces.

Shanghai, June 11.—Dr. C. T. Wang, Premier, now in retirement here was the guest of honor at a meeting of the Chinese Ratepayers Association at the Yip Ping Shan Hotel. He urged the Chinese tax-payers to cooperate, declaring that only in this way can they hope to achieve final victory.

Tientsin, June 11.—It is reported that one of the conditions of the pending alliance between Marshals Chang Tso-ling and Wu Pei-fu is that a new Parliament is to be elected in accordance with the election law of the 3rd year of the Republic.

Peking, June 12.—The Chinese Charge d'Affairs at London has cabled the Ministry of Foreign Affairs that the British Government is contemplating an indefinite postponement of the Tariff Conference on account of the unsettled political situation in China.

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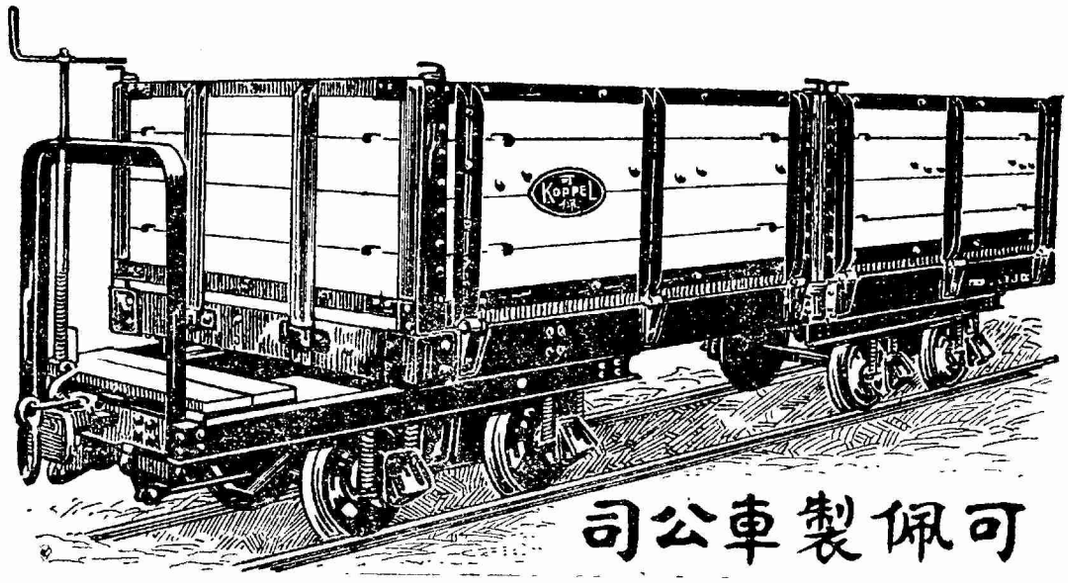

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Peking, June 12.—At today's session of the reparations committee of the Sino-Russian Conference, the Russian delegates are reported to have made a partial offer to reimburse China for losses suffered at the hands of the Russians during and following the World War to the amount of four, or five million dollars.

Tsinan, Shantung Province, June 12.—Hsu Tung-fan, commissioner of foreign affairs, has protested to the Japanese Consul-General against the practice of Japanese nationals residing in the native city of Tsinan, claiming that the Chinese cannot be held responsible in case trouble should develop.

Tokyo, June 13.—The Department of Communications is now definitely planning the establishment of aerial routes between Tokyo and Kagoshima and between Kagoshima and Shanghai.

Tokyo, June 13.—In view of the disturbed conditions which prevailed in Manchuria last year and of the prospects for continued trouble, the Government is seriously considering the advisability of considerably increasing the regular Japanese forces in that area.

Hankow, June 13.—In view of the serious situation in Hunan caused by the Canton Government's dispatching of reinforcements to General Tang Sheng-chih, Marshal Wu Pei-fu is reported to have issued instructions to General Chen Chia-mo, tupan of Hupeh to send reinforcements to assist the Chihli forces.

Hankow, June June 13.—An attempt to stir up an anti-British demonstration here on the anniversary of the troubles of last year, was prevented by the military authorities.

Peking, June 13.—The United States, Japan, France and Great Britain have decided to officially recognize the new Chinese Trademark Law.

Tokyo, June 13.—The Tokyo Imperial Museum has decided to open an eight-day exhibition of oriental pictures in honor of the visiting delegation of Chinese artists now in Tokyo who are attending the Sino-Japanese Art Exhibition.

Hankow, June 13.—A party of 38 Chinese students of the Wuchang Commercial College is departing today for a tour of Japan. Two of the students will remain in Japan to continue their studies.

Hankow, June 13.—General Chao Heng-ti, former tupan of Hunan, is departing for Peking for a conference with Marshals Chang Tso-ling and Wu Pei-fu regarding the Hunan situation which has become most serious owing to the encroachments of the Canton forces.

Hankow, June 13.—Marshal Wu Pei-fu has sent an urgent demand here for $200,000 to be used in connection with the anti-Kuominchun expedition.

Haifeng, Honan Province, June 13.—Losses suffered by merchants on account of the stoppage of the Lung-Hai Railway are estimated at $28,000,000 since the first of the year.

Shanghai, June 13.—The Chinese General Chamber of Commerce is planning an elaborate reception and dinner in honor of the Commercial Delegation of fifty members which has been touring Japan.

Shanghai, June 13.—At a tiffin party given at the close of the East China Athletic Meeting held at the Great Eastern Hotel today, Dr. C.T. Wang, former premior and chairman of the athletic meet, urged the students to persevere and prepare for participation in the forthcoming Olympic Meet.

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New Books and Publications

"The Alien Patriot"

Disraeli: The Alien Patriot; By E. T. Raymond: London: Hodder and Stoughton.

The great statesman of the Victorian era, Benjamin Disraeli, rose from a very ordinary level to the highest position in England. He received no proper schooling, having left school at the age of sixteen. "The worthiest object of chase are women and power." Till his death he was true to both principles. To attract women he carried rings too many in number and too brilliant in sparkle: his locks were too long and too heavily oiled; the pattern of his waist-coat was over-gorgeous.

Disraeli attempted journalism without marked success. He wrote novels which attracted some attention. His one object was to become a big man, at any cost. A few drops of baptismal water did not hurt him, and so he became a Christian.

Disraeli conquered England, goverened England, and even came to love England. But it was always as a foreigner that he saw England, and, though he was very willing to do England a service, he lacked the quality of a true patriot—he was not willing to sacrifice himself for England. He was insincere and loved mystery. Unlike Gladstone, his great rival, Disraeli loved secrecy and hated frankness. Carlyle called him "A Hebrew juggler being a Jew he could not feel like an Englishman."

Disraeli married at the age of thirty-five a widow of fifty-five. He respected his wife, and other pretty women as well. His fondness for women remained till his death. In his old age he loved passionately Lady Bradford, fifteen years his junior. He wrote hundreds of love-letters to her, quite a number of them in the house of the Parliament. When nearly seventy Disraeli had the fond heart of a youth of twenty. When in the cabinet he saw Queen Victoria and appealed to the woman in her, and she responded as a woman. Once when Disraeli was ill the Queen visited him in his bed chamber. "She was moody to Gladstone, rough to Bright, but she "felt like a bird" in the presence of Disraeli." It was on his suggestion that Victoria assumed the title of Empress of India. She visited his grave four days after his death and shed tears.

In 1846 Disraeli ceased to be a nationalist and became Imperialist. He not only kept peace with France, but proposed a Franco-British alliance against Bismark whom he called another Bounaparte. He kept his friendship with the Turk inspite of the Turkish brutalities in Bulgaria where hundreds of school girls were outraged and mutilated. Hearing from a private source that the Khadive of Egypt wanted to sell his shares of the Suez canal, he pursuaded Rothschild to buy them for the state. He did it—so secretly that the matter was not considered favorably. Disraeli rose to the supreme height of statemanship when, in 1857, after the Indian Mutiny, he recommended political reforms in India instead of a policy of oppression. Among the best friends of India in Britain Disraeli and Montauge are most honored by the people for their sincere desire to help the people. He gave his attention to Japan in 1872 when she was an unknown country and advocated an alliance with her. How far-sighted was this statesman. While Gladstone advocated peace at any price, Disraeli's policy was peace with honor. He lacked the broad spirit of Gladstone and the moral fervor of Bright, but as a statesman he was unique in his time. He remained true to his party and friends and placed the interests of England over his own.

Disraeli was not a religious man. In his novel *Tancred* he demonstrates that Christianity is simply an extension of Judaism. But his Judaism is something wider than the Judaism of the rabi. He finds some mystic virtue in the whole Arab race. "God never spoke to an European. He spoke only to an Arab." In fact he was sceptic and honored the prophets and apostles only as great Jews.

This Hebrew statesman carried England through many struggles, including the Afghan and the Zulu wars. Since the fall of Cardinal Wolsey in 1529, England did not produce a man of European mind to control her policy, till Benjamin Disraeli took charge of her destiny, as Earl Beaconsfield.

Lord Beaconsfield died in the early morning of April 19, 1831, after a lingering illness. Lady Bradford was the last woman he saw before his death. Dr. Kidd, who attended him, left a note that he died in the true faith of a Christian. Thus passed away the "Great Oriental", unquestionably a genius of the ago. He was a practical statesman and a brilliant author.

H. P. SHASTRI.

How To Keep Books

Modern Bookkeeping for Chinese Students, by Yo-Liang Chang: 200 pages: The Commercial Press, Shanghai.

Mr. Yo-Liang Chang, the author of this useful text book for Chinese students is chief accountant for a large Chinese company and instructor in Bookkeeping and Accounts for the Evening School maintained by the Chinese General Chamber of Commerce of Shanghai.

The book, according to the preface, is divided into three main subdivisions, the first giving a thorough explanation of the theory of double entry bookkeeping and the second explaining the various subsidiary books in which business transactions are first entered leading up to the preparation of the balance sheet. Part three contains explanations of the more complex transactions such as partnership accounts, joint stock companies, depreciation, bad debts, etc.

The book should be of great value to schools, especially commercial institutions and even for the ambitious Chinese clerk desiring to improve his position.

Who's Who In The Missions

Directory of Protestant Missions in China for 1926: Edited for the National Christian Council: Kwang Hsueh Publishing House, Shanghai: Price $3; to Missionaries $2.30.

There are approximately 6,000 foreign protestant missionaries now in China according to the *Directory of Protestant Missions*, which has just been published, the volume containing the names and addresses of all, including the mission organization represented. The individuals are grouped alphabetically and also according to societies and geographically. The volume consists of about 500 pages and in indexed with a key to affreviations used by the various mission organization. Under the geographical grouping the names of the members of the various individuals connected with different organizations are given under the headings of towns and provinces. The book should be of value to those interested in missions in China.

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SHANGHAI, CHINA

A Practical Peace Plan for China

This is the prize essay with points the way to a peaceful unification of China.

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The Practical Peace Plan is still timely and should be read by all patriotic Chinese.

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American Gold Bond Quotations

Name of Security	Coupon Rate %	Date of Maturity	Sale Price June 3rd	Sale Price June 10th	Approx. Yield to Maturity June 10th.
Szecho-Slovak Govt. Sinking Fund Loan	8	Oct. 1, 1952	101	101½	7.85
Cuban Domin. Sugar Co. 1st Lien S. F. Loan	7½	Nov. 1, 1944	98½	98½	7.65
Republic of Chile S. F. Loan	7	Nov. 1, 1942	101	101	6.90
Argentine Government Ser. "A"	6	Sept. 1, 1957	98½	98⅞	6.10
German Government S. F. Loan	7	Oct. 15, 1949	104½	104¾	6.60
Kingdom of Norway S. F. Loan	6	Aug. 15, 1943	101½	101¼	5.90
Deutsche Renten Bank 1st Lien Farm Loan	7%	Sept. 15, 1950	100	99¾	7.00
Can. Pac. R. R. Co. Debenture Stock	4	Perpetual	85½	85⅝	4.67
Belgian Government S. F. Loan	6	Jan. 1, 1955	83½	84	7.35
Andes Copper Mining Co. Debentures	7	Jan. 1, 1943	99¾	100	7.00
German General Electric Co. S. F. Loan	7	Jan. 15, 1945	100½	100	7.00
Saxon Public Works Inc. 1st Mtge. Guaranteed S. F. Loan	7	Feb. 1, 1945	95½	95¼	7.50
Cuban Northern RR. Co. 1st Mtge. Loan	6	July 1, 1966	97¼	96⅞	6.20
Dodge Brothers Inc. Debentures	6	May 1, 1940	93¼	94¼	6.65
Republic of Haiti	6	Oct. 1, 1952	98	98	6.15
Czecho Slovak Government Ext. S.F. Loan	7½	Oct. 1, 1945	98½	98½	7.65
Kingdon of Italy, Ext. S. F. Loan	7	Dec. 1, 1951	89½	89⅛	7.95

The National City Company International Bank Building No. 2A Kiukiang Road, Shanghai, China.

These quotations are subject to confirmation by the National City Company of NewYork.

Weekly Cotton Market Report

By J. Spunt & Co.

China Cotton:—Prices in the Cotton Exchange gradually receded during the past week and show a decline on the whole of about Tls. 1.50 per picul lower than that registered during the previous period and with a tendency at the close inclining more toward a weaker than stronger direction. The climatic conditions throughout the China Cotton belt continue on the whole favorable for the young plant, the reports on the American crop conditions indicate, thus far, bearish results, and spinners in general show no eagerness as yet to take in supplies to any great extent at present rates, unless there be a material improvement in the prospects for the disposition of their yarn output at more remunerative figures, but in the event of a complete cessation of hostilities in the country being realized soon it would naturally bring about a greater out-flow of yarn to the interior which in turn would serve as an impetus to greater activity in the local textile industries causing a more pressing demand for the local staple to evolve. In the meantime, however, our markets will be influenced to a more or less extent by the sentiment in the trade coupled with the varied reports as they transpire from day to day, on the condition of the new season growth.

Yarn:—We have had an easier market during the past week, with prices declined some two to three taels as compared with last week's level. Business for export has been booked some 6000 to 7000 bales in all counts for spot and forward deliveries. In summing up the situation from all sides we are of the opinion that the yarn market will present a more appreciating outlook no sooner the political disturbances in the country are favorably adjusted.

Liverpool:—
American-Middling 10.14
American-Middling last reported 10.30
Tone of market, *Steady*.

New York Market:—
Price of Mid-Amer. 18.50 Spot.
18.01 July.
16.78 Oct.
16.75 Dec.
16.65 Jan
16.78 Mar.
Tone of the market:—*Weak*

Indian Market:—
Fully Good Bengal, July 264
Fine Oomra, July..... 331
Fully Good Broach, J./A. 347
Tone of the market:—*Steady*.

Shanghai Market:—

	Tls
Tungchow, spot ex wharf	31.00
Shanghai, Spot	29.50
M. Ginned, Spot	30.00
Shensi, No. 1 Spot	30.00
Ningpo, Spot	28.00

Tone of the market:—*Steady*

Shanghai Exchange for Week Ending Wednesday, June 16, 1926.

By Maitland, Fearon and Brand

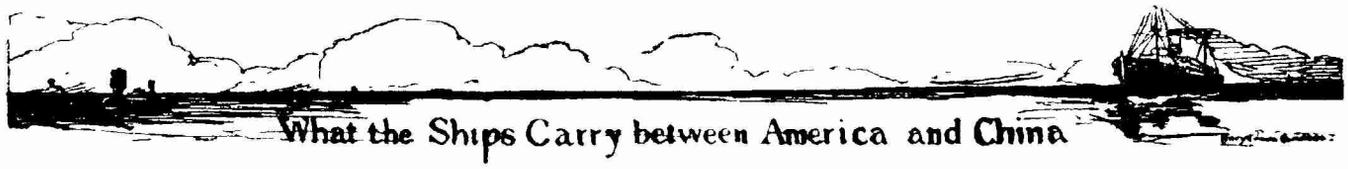
Exchange:—During the past week, the price of Bar Silver in London has risen ¼d today's price being 30¼d both ready and forward, in the same time the New York quotation has advanced from 65¼ to 65½. The official T/T rate on London is ¼d highe @ 2/11⅛d. The exchange market has ruled steady and quiet and closes firm. The strength at the close of the market is apparently not due to weight of export paper but rather to selling orders from Hong Kong and speculative sales of Yen; the latter only on a small scale. The future of the Franc, which has continued to depreciate to today's level of 175 07 to the £ sterling, is most uncertain; and franc paper can only be placed in limited amounts. The following rates for Gold remittances, near delivery, are available at the close T/T on London 2/11⅞d., New York 72⅜; Yen 64½. 4 m/s export paper can be placed;—Sterling 30¼d. June/July, ¼d. higher forward: G.$ 74½ June/July, 74⅜ forward.

Our stocks of Silver are reported as follows:—
Sycee and Bar Silver..... .. ..Tls 68,680,000 an increase of Tls. 6,027,000.
Chinese and Mexican Dollars.....$ 61,930,000 a decrease of $ 90,000.
Estimated value Tls. 113.269 000 as against Tls. 91,364,000 held at this time last year.

	Average rates for May	Thursday June 12	Friday June 11	Satur June 12	Mon. June 14	Tues. June 15	Wednesday June 16
Bk's selling rates		*opening closing*	*opening closing*	*opening closing*	*opening closing*	*opening closing*	*opening closing*
T/T London	2/11.150	2/11¼	2/11¼	2/11¼		2/11¼	2/11¼
O/Dfits, ,,	—	2/11 5/8	2/11 5/8	2/11 5/8		2/11 5/8	2/11 5/8
4m/s ,,	—	2/11½	2/11½	2/11½		2/11½	2/11½
T/T India	195 710	196¼	196¼	196¼		196¼	196¼
T/T France	2,258,600	23 75	2415	2430		2560	2570
T/T N. Y.	71.260	71½	71½	71½	BANK HOLIDAY	71½	71½
T/T Hong	77.045	77	77	76¾		76¾	76¾
T/T Japan	65.915	65¾	65⅝	65½		65¾	65⅝
T/T Batavia	176.048	176¾	176¾	176⅝		176⅝	176¾
T/T Straits	79 215	78¾	78¾	78⅝		78¼	78¼
Bk's buying rates							
4m/s B/L. Cred. D/A	3/0 470	3/0⅜	3/0⅝	3/0¾		3/0⅞	3/0¾
4m/s D/P	—	3/0⅞	3/0⅞	3/1		3/1	3/1
6m/s D/A	3/0.780	3/0 15/16	3/0 15/16	3/1 1/16		3/1 1/16	3/1 1/16
4m/s B/F. C., D/A, D/P	2,371 200	2505	2545	2560		2690	2700
4m/s N. Y. Lc.	73.580	74⅛	74⅛	74⅛		74⅛	74½
4m/s ,, Does	—	74⅜	74⅜	74⅜		74½	74¾

Based on Daily Official quotation higher arte taken on rising Market lower when falling. Bullion.	June 10	June 11	June 12	June 14	June 15	June 16
*London Price of Bar Silver per oz (English Standard 925 touch) Pence	30 1/16	30 1/16	30 1/16		30⅜	30¼
**N. Y. Price of Bar Silver per oz (Pure)	G.$.65¼	G.$.65⅜	G.$.65⅜	HOLIDAY	G.$.65⅜	G.$.65⅛
Shanghai Price of Gold Bars (weight Tls. 10 (Chauping) 978 touch)	313 00	310 80	313 00		314 20	313 20
Shanghai Silver Bars (weight Tls 100 (C.) 999 touch)	111 00	111 00	111 00		111 0	111 00
Shanghai Mexican Dollars per $100	71.45	71.425	71.40		71.2875	71.40
Native Bank Rate of Interest (Call money)	4%	4%	4%		4%	4%
*Closing Priece in London for Previous day						
**Closing Price in New York for Previous day						

Bank of England rate of discount	5%	London on Paris	T/T 175.07
Bank of France rate of discount	6%	New York on London	T/T 486 1/32
London open Market of Dis. 3 ms/.	4 1/16%	Bombay on London	T/T 1/5 29/32
,, 4 ,,	4 1/16%	Hongkong on ,,	T/T 2/2 7/8
,, 6 ,,	4 5/16%	Kobe ,, ...	T/T 1/11 3/16



Return of the Shanghai Customs

By Pls.—1 Picul or 133 1/3 pounds; Bls.—Bales; Pcs.—Pieces; Mil e—thousands; Hk. Tls.—Haikwan Tls., May Customs Rate Tls. 1.27 equal Gold $1

S. S. President McKinley, April 24.

To Seattle.

Tea, Black, Congou...	Pls.	13
Egg Albumen, Moist..	,,	233
Skins, Rabbit.....	Pcs.	5,000
Umbrellas, Paper.....	,,	4,032
Mattings Rush.....	Rolls	50

To Houston.

Hair, Human.....	Pls.	129

To Charleston.

Hair, Human.....	,,	65

To Philadelphia.

Rhubarb	,,	26

To Portland.

Silk Piece Goods	,,	0.11

To St. Louis.

Nutgalls	,,	420

To Buffalo.

Silk, Raw, Steam Filature:		
White, S'hai Bls. 45	,,	44.21

To Chicago.

Silk Piece Goods	Pls.	1.90
Brassware	,,	12

To St. Paul,

Soy.....	,,	41
Water Chestnuts	,,	40
Bamboo Shoots, Canned	Doz.	100

To New York.

Silk, Raw, Steam Filature:		
White.....Bls. 126	Pls.	115.89
Silk, Raw, Re-reeled:		
White..... ,, 10	,,	10.14
Silk Pongees, Honan ..	,,	91.67
,, ,, Shantung.	,,	6,92
Bristles Assorted.....	,,	40
Ducks' Down.....	,,	19
Hair, Human.....	,,	100
Ginger, Fresd	,,	41
Intestines, Pigs', Salted.	,,	84
Skins, Goat, Untanned	,,	930
Straw Braid, White ...	,,	17
Water Chestnuts	,,	105
Fans, Straw	Pcs.	21,812
Skins, Kid.....	,,	00,744
,, Lamb	,,	951
,, Leopard	,,	210
,, Rabbit	,,	10,000
,, Sheep's	,,	5,000
,, Weasel	,,	2,940
,, Wolf	,,	312
Umbrellas, Paper	,,	3,000

S.S. President Madison, May 15.

from U. S. of America.

Wooloa	Pls.	11
Copper Ingots	,,	420
Apples, Fresh	,,	227
Cheese	,,	31
Fish, Fresh	,,	31
Flour, Wheat.....	,,	184
Hams.....	,,	7
Ink, Printing.....	,,	285
Macaroni	,,	24
Milk, Condensed	,,	900
Paper Wrapping	,,	1,131
Oats, Rolled	,,	34
Cotton Singlets, not Raised.....	Doz.	48
Cigarettes.....	Mille	30,000
Motor-cars	Pcs.	17
Laths.....	,,	268,700
Softwood, Merchantable .....Sup. ft.		169,511

S. S. Oakridge, May 15.

from U. S. of America.

Flour, Wheat	Pls.	10,203
Paper, Printing	,,	2,059
Timber:		
Softwood, Ordinary Sawn.....Sup. ft.		354,744
Softwood, Clear....	,,	24,031
Softwood, Merchantable	,,	215,494

S. S. Amagi Maru, May 17.

from U. S. of America.

Leadfoil and Tinfoil ..	Pls.	100
Newspapers, Old	,,	750

S. S. Silveray May 18.

from U. S. of America.

Cotton, Raw ..Bls. 100	Pls.	340
Leadfoil and Tinfoil ...	,,	1,096
Tinned Plates, Plain ..	,,	923
Flour, Wheat.....	,,	1,838
Sharks' Fiue, not Prepared	,,	6
Tobacco, Leaf	,,	3,237
,, Stalk.....	,,	126
Oil, Lubricating, Mineral Galls.		1,152

S. S. West Sequana, May 19.

from U. S. of America.

Iron Wire Shorts	Pls.	607
Iron Galvanized:		
Wire Shorts.....	,,	71
Newspapers, Old	,,	336
Canned Meats	Doz.	200
Oil, Kerosene, in Cases Galls		351,360

S. S. Shunko Maru, May 19.

from U. S. of America.

Typewriters	Pcs.	30
Iron Sheets	Pls.	308
Iron, Galvanized: Sheets	,,	285
Tinned Plates Plain...	,,	1,658

S. S. President Adams, May 19.

from U. S. of America.

Cottons, Yarn-dyed ...	Yds.	1,151
,, Goods, Unclassed	,,	5,543
Wool & Cotton Mixtures, Unclassed	,,	193
Waterproof Cloth.....	,,	2,200
Aluminium Plates.....	Pls.	14
Iron Beams.....	,,	267
Iron Plates.....	,,	41
,, Wire Shorts.....	,,	297
Acid, Unclassed	,,	8
Asparagus Canned	,,	118
Cheese	,,	13
Coffee, Beana.....	,,	6
Copper, Sulphate of ...	,,	8
Fruits, Canned	,,	57
Gum, Aribic	,,	21
Indigo Paste, Artificial, 20 per cent, ...	,,	1,797
Ink, Painting.....	,,	168
Leather, Calf	,,	7
,, Patent	,,	13
,, Sole.....	,,	471
Macaroni	,,	6
Milk, Condensed	Pls.	254
,, Evaporated	,,	328
Newspaper, Old.....	,,	2,024
Oranges, Fresh.....	,,	149
Paper, Bank-note	,,	99
Paper, Blotting.....	,,	19
Paper, Coated	,,	843
,, Writing.....	,,	219
,, Unclassed.....	,,	49
Saccharins	,,	15
Seed, Bird	,,	10
Soda, Ash	,,	154
Sulphur, Black.....	,,	255
Tobacco, Prepared....	,,	33
Twine	,,	12
Chocolate	Lb.	1,624
Bath Tubs, Enamelled.	Pcs.	62
Bedsteads	,,	72
Lanterns.....	,,	20,760
Lemons Fresh.....	,,	97,500
Machines, Calculating..	,,	2
,, Sewing....	,,	2
Mate, Unclassed	,,	25,000
Motor-cars.....	,,	21
Motor-cycles	,,	4
Motor-trucks	,,	24
Oilcloth	,,	570
Pianos.....	,,	1
Scales.....	,,	454
Typewriters	,,	57
Canned Fish	Doz.	68
,, Meats	,,	444
,, Vegetable	,,	43
,, Goods, Unclassed	,,	279
Files, Steel	,,	240
Hoisery	,,	328
Singlets and Drawers, Cotton	,,	74
Shoes, ...	Pairs	2,271
Cigarettes	Mille	1,340
Oil, Lubricating, Mineral	Galls.	59,369
Rum, for Cigarette Making.....	,,	7,386
Varnish	,,	840
Dyes, Aniline Pkgs. 29	Hk. Tls.	1,825
Machinery	,,	113,600
Treasure: Silver Bars..	Hk. Tls.	2,205,999

S. S. Keemun, May 20.

from U. S. of America.

Cotton Velvets.....	Yds.	115
,, Wooloa	Pls.	19
Iron Nails, Wire	,,	750
Grease	,,	674
Wax, Paraffin	,,	285
Oil, Lubricating	Galls.	181,672
,, Unclassed.....	,,	2,000
Bedsteads	Pcs.	26
Cigarettes	Mille	25,000

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Alexander Shoe.
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The China Jade Co.
A Pratical Peace Plan for China.
The Commercial Press, Ltd
O. I. C.
"Chung Hwa Studio"
Watson's Co.

WHEN WRITING TO THESE ADVERTISERS KINDLY MENTION THE CHINA WEEKLY REVIEW

37-084

GENERAL NEWS SUMMARY

June 11—It has been arranged that the financial control of Austria shall terminate at the end of June——Brazil has formally resigned from the council of the League of Nations——M. Peret, French Minister of Finance, will not inflate in order to bolster the franc——Dr. William Cole, a Canadian physician practising in Mexico, is to be deported ——President von Hindenburg is criticized in the Reichstag on account of his recent letter on the subject of the expropriation of the property of the former ruling family.

June 12—Cardinal O'Donnell, Prelate of Ireland and Cardinal Bonzano, the Pontificial delegate, are greeted by thousands at New York, when they arrive to attend Chicago Eucharisitc Congress——Amicable international relations are big requisite of foreign trade, Coolidge cables National Foreign Trades Council, in convention at Charleston, S. C. ——A skyscrapper, 44 storeys high, containing a hotel of 3,000 rooms, an auditorium seating 13,000 persons, Roman baths and a church, which will be the highest in Rome, is planned as a monument to the Fascist regime——Complete separation of the Moro provinces in the Philippines from the Manila administration is proposed in House of Representatives——Indian Government has decided to end exportation of opium within 10 years.

June 13—The Soviet Government formally denies that it supplied any funds to the British miners in their strike—— The strike of the fur workers in the United States has been settled——British sailors, following the action of the French sailors, are now objecting to the second medical examination on the arrival of their ships in the United States——Chinese students in France have voluntarily contributed to the fund which is being arranged for the redemption of the national debt——The conference at Mukden between the Soviet and Fengtien has proved a complete failure, all Comrade Serebriakoff's more important demands being rejected by the Chinese——General Chang Hsueh-liang, son of Marshal Chang Tso-lin, has declined the post of Tupan of Chihli Province, saying he did not want to be "tied down to a provincial post."

June 14—Peru rejects Chile's counter-proposals for the settlement of the Tacna-Arica dispute——A very substantial reduction took place in British imports during May——A determined attempt is to be made for the purpose of wiping out illiteracy in the Philippines during the next five years——Sir Esme Howard, British Ambassador to the United States, is honored by admission to Phi Beta Kappa, national honor society for scholarship ——The new trans-Atlantic cable, which will transmit messages ten times as fast as at present, is being laid by the Western Union Telegraph Co.——Canton opens negotiations in earnest with Hongkong to end strike and boycott.

June 15—House of Commons take up Russian questions—— Spain is not pressing her candidature for a non-permanent seat on the Council of the League of Nations ——Capt. Doisy, in his flight to Japan by way of Siberia is fired on by Russian guards——Lieut. Botved had left Japan on his flight to Denmark via Siberia——The fresh fall of the franc is disturbing public opinion in France——House of Commons passes all clauses of the Bill dealing with the betting tax in England——The U.S.S. Pittsburgh is to relieve the U.S.S. Huron as flagship in Far Eastern waters——Reports from Peking foreshadows a Cabinet predominated by Fengtien. The Wu-Chang alliance still holds.

International Institute of China Report

That the work of the International Institute of China, Inc, was needed in China at present more than ever before and that this is the Institute's day of opportunity was the keynote of Rev. Gilbert Reid's report in the 56th and 57th Reports (the thirty-second year) of the International Institute of China, Inc., recently published. The report reiterates the objects of the organization, which are (a) to promote the welfare of China and the Chinese people, (b) to promote harmony between the people of China and those of other nationalties, and between the adherents of the Christian religion and those of other Faiths, etc. The report also contains an appendix containing an article, "Thoughts On permanent Peace In China," by Gilbert Reid, which was orginally published in *The International Journal*, and several book reviews dealing with China's problems.

THE CHINA WEEKLY
REVIEW

Devoted to the Economic, Political and Social Development of China and its Intercourse with Other Nations

EXTRA-TERRITORIALITY

A detailed analysis of the subject, giving foreign and Chinese views with suggested plans for solving the problem.

評論報 密勒氏

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FOR JUNE 19, 1926
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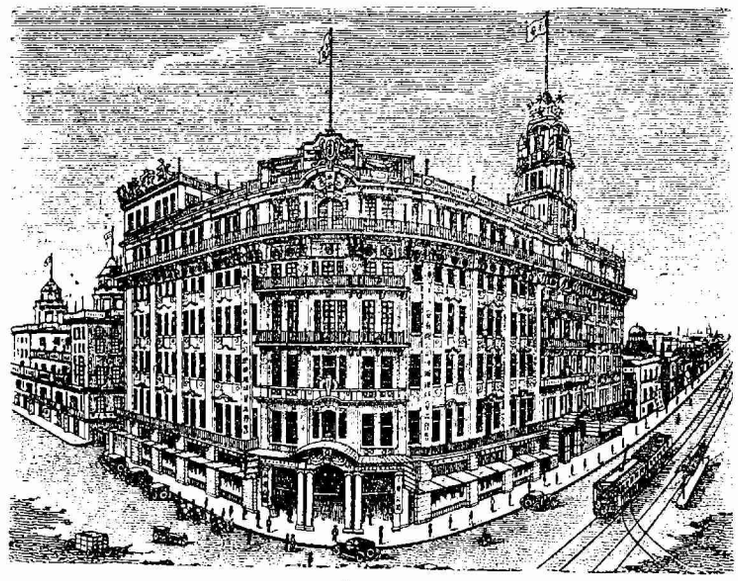

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NANKING & CHEKIANG ROADS

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上海華商紗布交易所

Chinese Cotton Goods Exchange, Limited.

No. 50 Avenue Edward VII

Authorized Capital, . . $3,000,000 Paid Up Capital, $1,500,000

Registered at the Government of China, No. 20. Business transactions dealing with Raw Cotton, Cotton Yarn and Cotton Cloth, in Spot and Foward.

Chief Managing Director, H. Y. Moh, B. S., M. S.
(General Manager of the Yu Fong Cotton Mill.)

Assistant General Managing Director, S. Y. Woo.

Managing Directors: Y. D. Chai, Woo Che Zan, Chang Yue Cheng, Woo Fung Shu

DIRECTORS

T. K. Yung, General Manager of the Shen Hsin Cotton S. and W. Co.
Woo Ling Shu, General Manager of the Tung Yih Cotton Mill.
P. W. Zee, General Manager of the Dah Foong Cotton Mill.
Shi Van Tai, General Manager of the Tsing Tai Cotton Mill.
Seu Tsing Jan, General Manager of the Poh Yei Cotton Mill.
Kou Van Yoon, Manager of the E. Zung Fong Cotton Yarn House.
Lou Cho Bin, Manager of the Mo Chang Cotton Yarn House.
Cheng Song Ding, Manager of the Zung Shen Cotton Yarn House.

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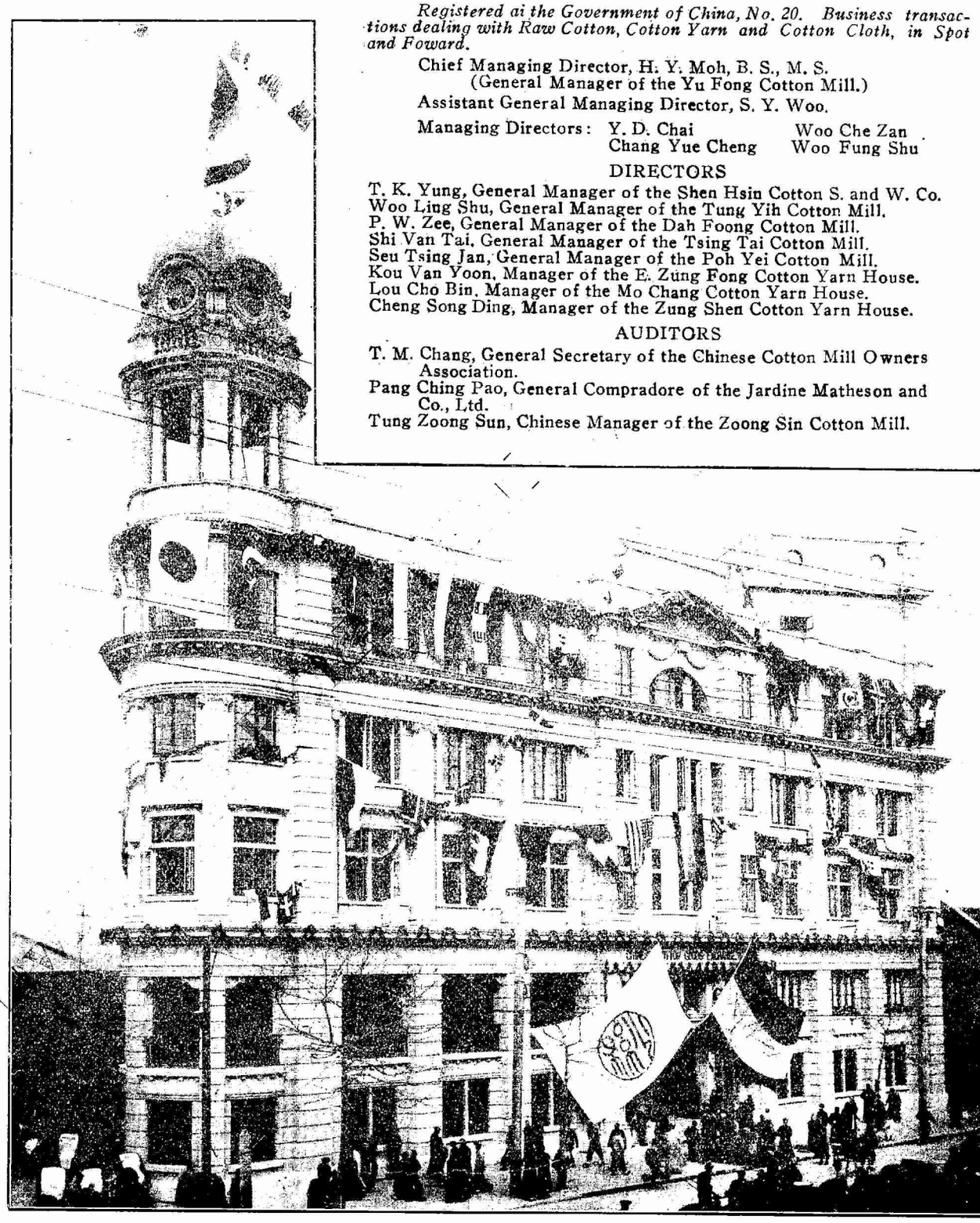

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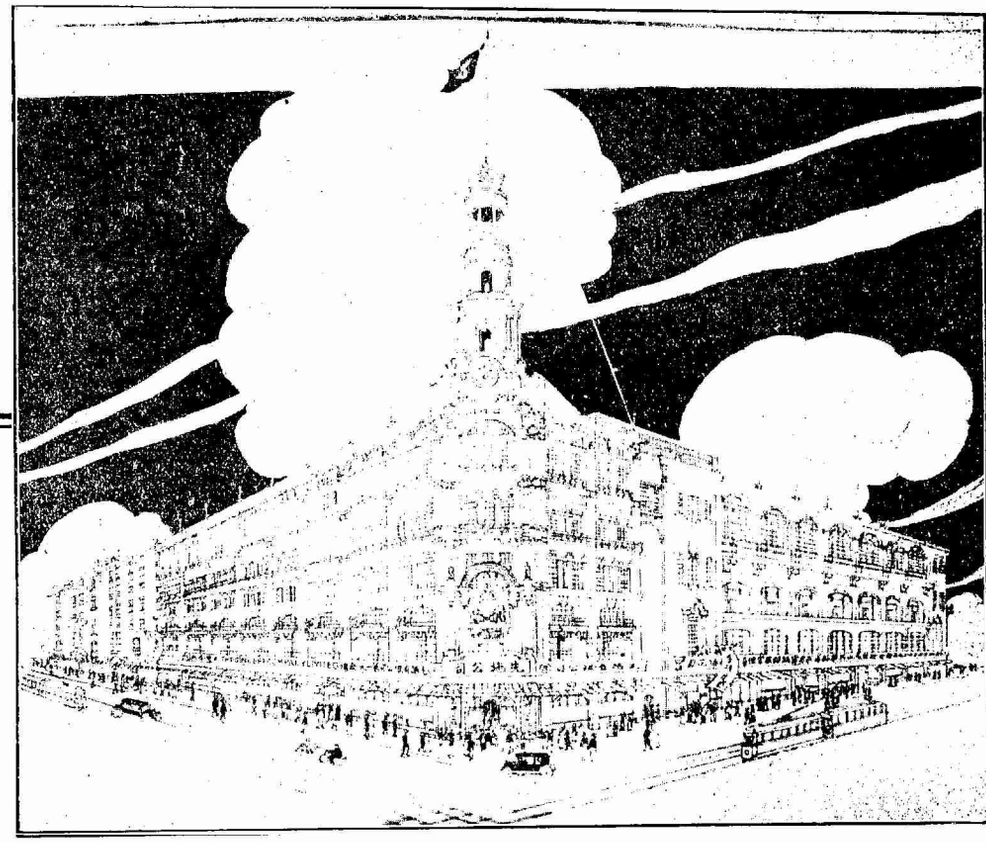

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密勒氏評論報
THE CHINA WEEKLY REVIEW

Formerly Millard's Review

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Problems Involved in the Solution of the Extrality Question

UNDER the system of Extraterritoriality an American citizen, resident in China, cannot be taxed, arrested, or tried by the Chinese authorities. That, in simple language is extraterritoriality, and in addition to the Americans, the Belgians, Danes, French, British, Italians, Japanese, Dutch, Norwegians, Portugese, Spanish, Swedish, Brazilians, Mexicans and Swiss residents in China, have similar privileges. The Germans, Austrians and Russians, prior to the World War, had similar privileges but lost their rights directly or indirectly as a result of the War. The Americans have to thank Caleb Cushing who negotiated their first treaty with China in 1844 for their extraterritorial privileges. There was obviously no force exercised by the Americans in the negotiation of this treaty, the Americans having no navy of consequence at that time. China consented to this treaty arrangement as the easiest way out of a difficult predicament. Following the example set by Caleb Cushing of the United States, other foreign nations provided for extraterritoriality in their treaties with China. The system of extraterritariality is not peculiar to China it formerly having existed in Japan, Siam, Turkey and Egypt. There are records of a somewhat similar system in ancient Rome and China's first treaty with Russia in the Sixteenth century contained an extraterritorial provision. China is, however, the last country wherein foreign nations still maintain this practice in the modern world.

WHEN foreigners first came to China they traded with the Chinese people without any treaties, for a period of 250 years, but it was finally discovered that treaties were needed to give regularity to commercial intercourse. The first treaty granting extraterritorial rights was the outcome of dealings between Westerners and Chinese. It was an attempt to solve a problem which developed because of widely opposed ideas concerning the administration of justice. From the standpoint of the Americans there had been a case where a sailor on an American ship had accidentally killed a Chinese. The Chinese demanded that the sailor be handed over to the Chinese authorities, which was done. No Americans were permitted to appear at the trial and give testimony and the sailor was adjudged guilty and executed by strangulation. Following that incident, the Americans naturally refused to hand over any more of their nationals accused of crimes by the Chinese. Then on the other hand the Chinese had considerable trouble through their nationals seeking refuge on the foreign ships, when they were wanted by the police, on some ground or other. Finally the foreign and Chinese

officials got together and drafted the extraterritorial treaty which meant at that time, "We will look after our nationals and you look after yours." After a time the extraterritorial treaties of 1844 were found unsatisfactory and others were drafted. Then still others, in each case the negotiators trying to improve on the previous attempt. Through this long period of adjustment China had many difficulties with foreign nations and fought several wars, in most of which she was defeated. Finally in 1903, nearly a quarter of a century ago, the United States made a treaty with China in which America agreed to "give every assistance to China in reforming its judicial system and bringing it into accord with that of Western nations and will be prepared to relinquish extraterritorial rights when satisfied that the state of the Chinese laws, the arrangement for their administration, and other considerations warrant it in so doing." Great Britain, Sweden and Japan also made treaties about this time containing similar promises.

ASIDE from the demand expressed in these treaties of 1902 and 1903 respecting a relinquishment of extraterritoriality, China officially asked at the Paris Peace Conference following the World War, for a revision of her treaties on extraterritoriality. Nothing was done at that time, but on December 10, 1921, the Washington Conference unanimously adopted a resolution providing for the appointment of an international commission of jurists to meet in China for the purpose of "inquiring into the present practice of extraterritorial jurisdiction in China, and into the laws and judicial system and the methods of judicial administration of China with a view to reporting to the Governments of the several Powers their findings of fact in regard to these matters, and their recommendations as to such means as they may find suitable to improve the existing conditions of the administration of justice in China, and to assist and further the efforts of the Chinese Government to effect such legislation and judicial reforms as would warrant the several Powers in relinquishing, either progressively or otherwise, their respective rights of extraterritoriality."

THIS international commission is now in China attempting to carry out its mandate. The Commisson met in Peking early in January of this year and according to the resolution adopted at the Washington Conference, it must complete its investigation and render its report within the period of one year. Following the investigation of the Chinese codes and court organization and administration of justice in Peking, several members of the Commission, as these lines are written, are making a tour of the provinces investigating conditions respecting the administration of justice in the various centers. The Commission on Extraterritoriality is composed of delegates from the following countries: America, Belgium, China, Denmark, France, Great Britain, Italy, Japan, Netherlands, Norway, Portugal, Spain and Sweden. In most cases the delegates are men long experienced in the law as attorneys or judges and that they are qualified for their important work, goes without saying. Although political and diplomatic considerations foreign to the question of extraterritoriality may have a certain bearing upon the resulting action of the Extraterritorial Commission, it is assumed, or at least hoped, owing to the vital interests concerned in this question, that the matter will be judged purely upon its merits. The resolution adopted at the Washington conference attempted to safeguard this point by stating that, "in no case shall any of the said Powers make its acceptance of all or any portion of such recommendations either directly or indirectly dependent on the granting by China of any special concession, favor, benefit or immunity, whether political or economic." This clause was inserted for the purpose of preventing China from trading off territories or economic resources in exchange for relinquisment of extraterritorial rights, as happened in the case of Siam.

THIS is where the situation stands today: China has asked for a revision of the extraterritorial treaties, holding that the present system is derogatory to the dignity and sovereignty of the country. They point out that when extraterritorial rights were first granted by China in 1844 that they applied to only a small number of aliens in the treaty ports and that a system which worked satisfactorily in 1844 has now become intolerable in view of the hundreds of foreigners residing in all parts of the country and claiming extraterritorial rights. The Chinese nationalists call attention to the multiplicity of foreign courts with conflicting laws and regulations, of the inevitable tendency of foreign judges and consular officials to protect their own nationals, in some cases even against just claims of Chinese. They point to abuses of extraterritorial rights on the part of nationals of certain Powers in respect to opium smuggling and other matters and call attention to the fact that Chinese citizens often obtain immunity from prosecution in their own courts by obtaining foreign protection. They point to definite evidence emanating from foreign court cases in Shanghai showing that foreign consular officials have abused their extraterritorial rights by granting protection not only to Chinese but to foreigners who have become involved in matters illegal under Chinese law.

ALL of these things are admitted by right-minded foreigners who recognize that abuses have crept into a system which worked satisfactorily when the number of foreigners in China was small and when China's foreign commercial relations were limited to two or three foreign countries. The foreigners admit that conditions have changed in the eighty years which have elapsed since the first extraterritorial treaty was signed. At that time foreign trade was limited to a few coastal ports: now it reaches into all parts of the country. Eighty years ago few foreigners had ever ventured into the interior: now foreigners engaged in trade and missionary work reside everywhere from Yunnan to Mongolia and from Shanghai in the east to Chengtu in the far-western province of Szechuen. The foreigners also recognize the fact that the extraterritorial situation has become immensely complicated by the loss or relinquishment of extraterritorial rights on the part of the Germans and Russians. The foreigners also recognize that the multiplicity of courts causes confusion and often miscarriage of justice for what may be legal under French law may be highly illegal under American or British law. The foreigners also recognize that cases arising in the interior present a special difficulty owing to the often impossibility of transporting witnesses to the treaty ports where the foreign courts are located. And lastly, the foreigners recognize that China has made considerable progress in the codification of her laws and in the organization of modern courts as well as the establishment of several modern prisons.

ALL of which leads us up to the question, "What is to be done to improve the present situation?" or in other words, "What is the Extraterritorial Commission planning to recommend as a relief from the present practice of extraterritoriality, which, admittedly is out of date?" To sum up the situation in simple terms: China has been demanding a change

from the present situation which she claims to be unbearable and each succeeding year her demands become more pronounced. Last summer, as a result of the May 30 troubles, China was enabled to make her voice heard throughout the civilized world and sympathy for her situation was aroused every where. Foreigners, familiar with conditions in China and sympathetic toward China's nationalist aspirations would like to grant China's demands, but they are faced with the actualities of a situation which makes them frankly apprehensive regarding the personal safety of their nationals residing in China and the security of commercial enterprises which have been built up in China through the years. China might settle the situation arbitrarily by abrogating the extraterritorial treaties and thus destroying the legal status of the foreign courts from the standpoint of their jurisdictions over foreigners resident in China. On the other hand the Powers might send a sufficient armed force to China to enforce the treaties and arbitrarily put a stop to the present agitation for treaty reform. Still another solution would be for the foreigners and Chinese to get together and work out a new system which would be satisfactory to both sides.

CHINA'S greatest handicap in obtaining the consent of the Powers to an immediate relinquishment of extraterritorial rights, is the lack of a Central Government and the control of the country by military factions which are a law unto themselves. Obviously no court can function in a land wherein there is no observance of law by those who should be amenable to its regulations. As Mr. Tong Shao-yi, former Premier and conservative political leader recently put it, "China needs a stable government, a constitution and responsible courts, not for the benefit of the few foreigners residing in China but for the benefit of the masses of Chinese people." Therefore, the first requisite for a relinquishment of the foreign special rights, should be a Central Government with power to enforce its mandates throughout the land. What that government is to be is not for the foreigners to say: obviously it must be of China's own creation and suited to the needs of the Chinese people. Following the establishment of a central government to replace the present system of military dictatorships the Powers, lead by the United States and Great Britain, should move immediately to meet the desires of the Chinese people respecting a revision of the extraterritorial treaties. How this is to be done is a matter for the jurists and diplomats to say, but there should be sufficient precedents in the relinquishment of extraterritorial rights in other countries such as Japan, Siam and Turkey, in order that a workable system may be devised for China. In short, China must be given the opportunity to develop her courts and assume jurisdiction over foreigners and foreign interests, but at the same time there must be certain safeguarding provisions for legitimate foreign interests during the transition period. In the case of Japan, the protection was provided through the employment of foreign advisers or councillors in the Ministry of Justice. In Siam, the foreigners have the right of appeal to their consular officials in case they are dissatisfied with the decisions of the Siamese courts. In Turkey, although the United States has not as yet ratified the Turkish treaty, it is reported that foreign legal experts are to be attached to the ministry of justice somewhat similar to the method adopted in Japan. China, owing to the immense size of the country and extent of foreign interests, presents a special problem, but the character of statesmanship which has assisted in the solution of the after-the-war problems of Europe, should be able to solve this problem involving China's relationship with foreign nations, and from a larger standpoint, the peace of the Pacific and the world generally.

BRIEFLY, it is to be hoped that the result of the present investigation of extraterritoriality will be a change from the past negative policy of the Powers to a future definite and positive policy that will help China organize her courts and modernize her administration of justice so that she may herself shoulder the responsibility of jurisdiction over foreigners and their interests. In the past the Powers have stood by their treaties and in effect have said, "Nothing doing, until you have brought your courts up to our standards," forgetting that it has required the West many centuries to develop its system of courts and that they are not perfect yet, witness the present widespread criticism of courts in the United States on the ground that they are too lenient with evil-doers. It is to be hoped that the future policy may be expressed in the words, "We are going to give you an opportunity to develop your courts and the administration of justice over our nationals and their interests in China, and we are going to help you in this work, but at the same time we are going to demand a square deal just as we grant a square deal to Chinese nationals residing in our territories."

Training China's Future Lawyers And Judges

IT is said that there are only 600 trained Judicial officials in the entire Chinese Republic, which means that China's population of 400,000,000 people is served by Judges in the ratio of one Judge to about 600,000 people. If China had as many lawyers in proportion to population as has the American community at Shanghai, (20) there would be some 2,000,000 lawyers in China. Whether China has too few trained lawyers or whether the American community at Shanghai has too many, we are not in a position to say, but the subject of legal education in China has an important bearing on the subject of extraterritoriality to which this issue of the *Review* is chiefly devoted. Under the Manchu Empire, practicing lawyers were unknown in Chinese courts and according to some of the reports dealing with the administration of Justice in various parts of China, they are still unknown in many parts of the interior. According to one report from Shantung Province the local magistrates will not permit lawyers to appear in court when cases are bring tried. This may simplify matters for the judge, but it makes it rather difficult for the accused! Obviously trained lawyers are necessary in the development of a modern system of courts and since China is now demanding that all foreigners in China be brought under the authority of the Chinese courts, the subject of legal education becomes tremendously important and should offer an attractive future for the Chinese young man considering the choice of a vocation.

THE first law course offered by an educational institution in China was at Pei-yang University at Tientsin in 1895. Dr. Wang Chung-hui, China's outstanding jurist of today, former Chinese representative at the International Court of Justice at the Hague and at present serving as China's chief delegate on the Extraterritorial Commission, was one of the first graduates of the Pei-yang law course. Later he went to the United States to complete his education and won distinction

by translating the German code into the English language, an accomplishment which won him distinction in legal circles all over the world. Unfortunately, the Chinese Government closed the Pai-yang law school in 1918 and transferred the instruction to the National University Law School at Peking. When the Pei-yang law school was functioning, most of the instruction was conducted by foreign lawyers practicing in the Tientsin courts, but this cooperation was lost when the school was transferred to Peking. According to an article in the *China Law Review* by Dr. W. W. Blume of the Comparative Law School of Shanghai, there are now only two institutions in China in which foreign lawyers have cooperated. They are the Aurora University operated under the direction of French Jesuits and the Comparative Law School operated under the auspices of Soochow University, which is controlled by the American Presbyterian Mission. Of the Chinese law schools only one is of university grade and that is the law department of the National University at Peking. Some 425 students were enrolled in that institution in 1923, but since the school has been seriously affected by the political turmoil and dearth of finance for educational purposes in recent years, the number of students and conditions existing at the institution are unknown at the present time. Following the establishment of the Republic many so-called "law colleges" sprang into existence. Since there was a general scramble for positions in the new Republic, it was generally believed that the profession of law provided the royal road to a political job. Hence the schools were crowded. But since the Repulic inherited little legal literature from the Manchu Empire, the problem of suitable text books immediately arose. Since few of the students were able to read English they turned to treatises on Western law which had been written in Chinese characters by the Japanese. And since Japan adopted her new legal system largely from Germany, China naturally followed along and obtained her early legal education from Germany by way of Japan. The rapid and brilliant way in which the Japanese had modernized their judicial system naturally appealed to the Chinese students and hundreds of them flocked to Japan.

IN 1915-1916, according to Dr. Blume, there were forty-nine law colleges in China and an enrollment of more than 15,000 students was claimed. In 1921 this number had been reduced by half and according to recent statistics has been going down steadily since. Since the number of students going abroad for advanced legal education is comparatively small, it causes one to wonder whether the domination of the Republic by the militarists making the operation of modern courts a practical impossibility, has been responsible for the decrease in interest in the study of law on the part of Chinese students. In July, 1922, an Educational Convention held in the city of Tsinanfu, Shantung Province, passed a resolution recommending to the Government that the existing government law colleges be abolished on the grounds that they produced "disorderly graduates" and "case-multiplying lawyers." Whether the law colleges organized at the time the Republic was founded failed to turn out the type of men necessary to carry on a republican form of government, or whether the usurpation of power by the militarists which has made constitutional government impossible, has been responsible for the failure of the law colleges, is difficult to say. However, if China is to continue as an independent nation and develop constitutional government with a modern judicial system, it is necessary that modern law schools of the highest possible type be developed. It is quite possible that some suggestion along this line will be included in the report of the Commission on Extraterritoriality. Dr. Blume of the Comparative Law School in an address before the third annual meeting of the International Bar Association at Manila in 1923 emphasized some of China's problems in this connection as follows:

"A SYSTEM of legal education for Chinese students must be based upon the needs of the country. China has an indigenous legal system which cannot be ignored. It is antiquated, however, in many ways and needs to be swung into line with modern legal ideas and practices. Codes are being prepared based on foreign principles, but it must be constantly held in mind that native legal institutions are already deeply rooted in Chinese life and cannot be plucked up and others transplanted without grave danger to society. Certainly the legal institutions of no one nation are suitable for transplanting. .....The question of what Western law should be infused into the ancient system of China should be held in abeyance until the various legal institutions of China have had a chance to develop and all existing customary law pertaining to each collected and classified, and until there has been a serious study of the various Western systems in their native tongues. But what law will the courts administer in the meantime? As long as good men are kept on the bench of the Supreme Court at Peking, the present system of rendering carefully considered judgments on cases of first impression with the view of creating precedents, will serve quite well. In one of its early decisions the Supreme Court held that 'Civil cases are decided first according to express provisions of law, in the absence of express provisions, then, according to custom, and in the absence of custom, then according to legal principles.' This decision clearly provides for the recognition of the Chinese customary law; also for the infusion of the principles of Western Jurisprudence. Let the law schools add yearly to bench and bar men of broad training and sterling character, and in time, and the time will not be long, there will be stuff from which real codes can be written and a worthy judicial system can be erected."

MR. SILAS H. STRAWN, Chairman of the Commission on Extraterritoriality and American delegate to the Customs Conference, himself a successful lawyer, also stressed this point of legal education and legal investigation in an address delivered before the Chinese Social and Political Science Association in Peking on May 14. In describing the work of the American Bar Association, Mr. Strawn explained that the organization had 20,000 members and has standing committees on Legal Education and Admission to the Bar, Uniform Laws, Criminal Law, Patent Law, Copyright Law, Commercial Law, the Federal Judiciary and Grievances. Of these committees, in Mr. Strawn's, opinion, the one on Legal Education and Admission to the Bar, is of most importance since it constantly works to raise the standard of requirements for admission to the bar. In the State of Illinois, Mr. Strawn explained, the Bar Association has a special committee which examines applicants for licenses to practice law and among the requirements, in addition to legal education candidates must pass an examination on "character and fitness." In conclusion, Mr. Strawn said, "Many members of our national Congress and the State Legislatures are lawyers, usually members of the American Bar Association, and local associations. Thus it is that the influence of the bar associations upon the development of our laws is more persistent, intelligent and effective than all other influences combined.

Extraterritoriality—Its Origin, History and Present Status*

By Cleveland Perkins

The system of extraterrioriality now in force in China, which is to be reconsidered by the treaty powers in the forthcoming Peking conference with a view to its ultimate abandonment, is one of the main causes of anti-foreign sentiment in that country. The system has its basis in a series of treaties signed by the Chinese Government—the first with Great Britain in 1843—in which extraterritorial rights were conceded to certain foreign powers. Under these treaties the nationals of the treaty powers resident in China are not subject to Chinese law, but remain under the protection of their own national law, administered in China by their own national officials. The system is now looked upon by China as a derogation of her sovereignty and its abolition has been repeatedly sought by the Chinese Government.

The Nine-Power Treaty regarding the Far East, negotiated at the Washington Conference in 1921, provided for the appointment of a commission to make a through investigation of the system of extraterritoriality in China and to make recommendations as to the conditions under which it could be abolished. The commission was scheduled to meet at Peking, December 18, but the meeting was delayed for a few days owing to the non-arrival of several of the commissioners.

Significance of the Peking Conference

The meeting at Peking is significant not only because of the importance of the problem that will be discussed but because it marks a further definite step in the willingness of the Powers to put into practical effect the more liberal sentiments toward China which were evidenced at the Washington Conference. The United States Government then and since has repeatedly given expression to its determination to make every effort to remedy the conditions which have tended to make the foreigner unpopular in China. The Tariff Conference held at Peking on October 24 last did much to restore Chinese confidence in the sincerity of these efforts. At that conference China was promised complete control of her customs after January 1, 1929.

It is expected that every effort will be made to ensure the success of the conference on extraterritoriality. Mr. Austen Chamberlain, the British foreign minister, has expressed himself as very favorable to the abolition of extraterritoriality under certain guarantees. It is not thought that any of the other countries will block the way unless the Chinese show themselves unreasonable in granting the necessary guarantees. The success of the conference should pave the way for an era of more friendly relations between China and the world and make possible the further opening up of the country.

Authority of the Conference

The countries which have named representatives on the commission to meet at Peking are the nine powers that signed the Washington treaty:

Belgium	Great Britain	Netherlands
China	Italy	Portugal
France	Japan	United States

By subsequent adherence, representatives of Denmark, Peru, Spain and Sweden will also attend.

In providing for the constitution of the commission, the Washington Conference, at the ninth meeting of the Committee of the Whole, provided that the

"governments of the powers shall establish a Commission, (to which each of such governments shall appoint one member) to inquire into the present practice of extraterritorial jurisdiction in China, and into the laws and the judicial system and the methods of judicial administration of China, with a view to reporting to the governments of the several powers above named their findings of fact in regard to these matters, and their recommendations as to such means as they may find suitable to improve the existing conditions of the administration of justice in China and to assist further the efforts of the Chinese Government to effect such legislation and judicial reforms as would warrant the several powers in relinquishing, either progressively or otherwise, their respective rights of extraterritoriality."

The resolution also provided that the commission should be constituted within three months after the adjournment of the Washington Conference and be instructed to submit its report and recommendations within one year after its first meeting. Furthermore, "each of the Powers shall be deemed free to accept or reject all or any portion of the recommendations of the commission but in no case shall any of the said powers make its acceptance of all or any portion of such recommendations either directly or indirectly dependent on the granting by China of any special concession, favor, benefit, or immunity, whether political or economic." Provision was made for the adherence of non-signatory powers enjoying extraterritorial rights in China.

The Attitude of China

By the following resolution adopted at the same time China proclaimed her satisfaction and adherence:

"China having taken note of the resolutions effecting the establishment of a commission to investigate and report upon extraterritoriality and the administration of justice in China, expresses its satisfaction with the sympathetic disposition of the powers hereinbefore named in regard to the aspiration of the Chinese Government to secure the abolition of extraterritoriality in China, and declares its intention to appoint a representative who shall have the right to sit as a member of the said commission, it being understood that China shall be deemed free to accept or to reject any or all of the recommendations of the commission. Furthermore, China is prepared to cooperate in the work of this commission and to afford to it every possible facility for the successful accomplishment of its tasks."

Although the Chinese parliament promptly appropriated $200,000 toward this commission, the Chinese Government asked for a year's delay in its formation because of the disturbed condition of the country. Still further delay was caused by a dispute between France and China as to whether China should be allowed to pay France her share of the Boxer indemnity in depreciated paper francs. This discussion led France to delay her ratification of the Nine-Power Treaty until August, 1925. Meanwhile, as a result of the Shanghai riots of May 30, China had presented a note containing fourteen demands to the Powers on June 24. Most of the demands had to do with the disturbances in Shanghai, but the fourteenth called for an early revision of the unequal treaties between China and the Powers. This in-

*Editorial Research Report, Washington, D.C.

volved the restoration of customs autonomy and the abolition of extraterritoriality.

Reply of the Powers to China's Demands

As a result of the Chinese note to the Powers and the ratification of the Nine-Power Treaty by France on August 4, the interested nations addressed identic notes to the Chinese Government declaring that they were willing to consider China's proposal for the modification of existing treaties "in measure as the Chinese authorities demonstrate their willingness and ability to fulfill their obligations and to assume the protection of foreign rights and interests now safeguarded by the exceptional provisions of these treaties." The notes expressed the desire of the powers "to impress upon the Chinese Government the necessity of giving concrete evidence of its ability and willingness to enforce respect for the safety of foreign lives and property and to suppress disorders and anti-foreign agitation which embitter feelings and tend to create conditions unfavorable to the carrying on of negotiations in regard to the desires which the Chinese Government has presented for the consideration of the treaty powers." Furthermore, the notes asserted, "courts cannot function and develop properly or consistently without the aid of stable government capable and willing to maintain them and enforce their findings and decisions. It is regretted that the inability of the Chinese Government during the past few years to enforce the mandate of its authority has made it difficult for the courts and judiciary already established to function in a normal manner."

Prospective Work of the Conference

The commission which gathered together at Peking is in short a body appointed by the foreign powers most closely concerned to find out how far the Chinese are justified in demanding the abolition of extraterritoriality. The commission will presumably find out firstly what judicial reforms the Chinese have made on paper, secondly how far these reforms have been carried out in practice, thirdly how far the disturbed condition of the country has interfered with judicial reform and, fourthly how far Chinese justice administered entirely by Chinese officials will be acceptable to foreign nations for the protection of their nationals. In putting the case before the Powers, China must be able to hold out some prospect that her central government is to be sufficiently strengthened to make possible the enforcement of those judicial reforms which she has already made and for those which are in prospect.

It is difficult to tell how far the successful conclusion of this conference would serve to quiet the country as a whole. The success of the tariff conference in October was important in quieting the anti-foreign feeling in China but the central government remains practically powerless over large portions of its dominions. Mr. Austin Chamberlain recently stated that it is the lack of an effective central government which constitutes the chief difficulty to reorganizing the Chinese fiscal and legal systems.

History of Extraterritoriality

The practice of granting extraterritorial rights to foreigners began immediately after the conclusion of the so-called Opium War, 1839-42, between Great Britain and China. The treaty of peace signed at Nanking in 1824 was followed in 1834 by a supplemental treaty which contained the first extraterritorial concession granted by the Chinese Government. This treaty was followed in 1844 by a treaty with the United States which contained the first definite elaboration of the principle. These rights were granted as a result of the foreign dissatisfaction with nearly every aspect of Chinese justice which, at that period, had little in common with the judicial ideas prevailing in the West. Although much of this dissatisfaction was probably due to a too literal reading of the Chinese laws, there appears to have been substantial reason for complaint, which was further accentuated by the acute anti-foreign feeling then prevalent in China.

American Treaties with China

These early treaties, although later amplified, remain the basic definition of foreign rights in China. Article XXI of the 1844 treaty with the United States provides that:

"Subjects of China who may be guilty of any criminal act towards citizens of the United States shall be arrested and punished by the Chinese authorities according to the laws of China and citizens of the United States who may commit any crime in China shall be subject to be tried and punished only by the consul or other public functionary of the United States thereto authorized according to the laws of the United States."

This provision was confirmed and amplified in the Tientsin treaty of June 18, 1855, and reached its final form in Article XIV of the supplemental treaty of November 17, 1880, as follows:

When controversies arise in the Chinese Empire between citizens of the United States and subjects of His Imperial Majesty which need to be examined and decided by the public officers of the two nations, it is agreed between the Governments of the United States and China that such cases shall be tried by the proper official of the nationality of the defendant. The properly authorized official of the plaintiff's nationality shall be freely permitted to attend the trial, and shall be treated with the courtesy due to his position. He shall be granted all proper facilities for watching the proceedings in the interests of justice. If he so desires, he shall have the right to present, to examine and to cross-examine witnesses.....If he is dissatisfied with the proceedings he shall be permitted to protest against them in detail. The law administered will be the law of the officer trying the case."

In order to give statutory authority to American consuls in China to exercise the judicial functions permitted by the Treaty of 1844, Congress passed the Act of August 11, 1848, which was modified in 1860, 1866 and 1870. The substance of these laws is now contained in the Revised Statutes of the United States. These laws also gave the consuls extensive powers. In cases of dispute the matter was to be referred to the American Minister in Peking. The consuls were allowed considerable latitude in interpreting the law. In cases where the American law was either inapplicable or defective, the consul was authorized to be guided by the common law, the law of equity and admiralty, and in certain cases, especially where property holding was concerned, by the Chinese law.

The number of places in China where foreigners are allowed to reside has been steadily increased, thus increasing the area of extraterritorial jurisdiction. The United States now has consulates in the following eighteen cities, mostly ports: Amoy, Antung, Canton, Changsha, Chefoo, Chunking, Foochow, Harbin, Kalgan, Mukden, Nanking, Shanghai, Swatow, Tientsin, Tsinan, Tsingtao and Yunnanfu.

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Chinese and Foreign Views On Mixed Court Rendition

Extrality and the Mixed Court at Shanghai

By R. T. Bryan, Jr.

EXTRATERRITORIALITY was granted by China to foreign powers principally because the laws, usages and customs of China were entirely different from those of Christian nations. In Mohammedan States extrality was first granted by usage and not by treaties. In China, however, the situation was different. From the first China objected to extrality, and only granted it because she was compelled by force of arms. The Chinese criminal law, at the time that exemption from local law was granted to foreigners, was harsh and vicious. Chinese law made no distinction between murder and manslaughter, other than by making the first punishable by decapitation and the latter by strangulation. This fact alone was a constant source of friction between foreign governments and China. Many a foreigner was strangled for an offense for which he would have been sentenced in a foreign country to nothing more than a short term of imprisonment.

These harsh and vicious provisions of the Chinese criminal law would not have been objected to so strenuously by aliens if justice had been properly administered. Defendants in criminal actions were presumed to be guilty, were not entitled to the benefit of counsel nor to summon witnesses to testify in their behalf. Confession was essential to conviction, and often the prisoner, though innocent, was beaten and tortured until he confessed. Corruption was notorious among the Chinese Judiciary, and "their judgment was at the disposal of the long purse".

The Commission on Extraterritoriality, appointed by virtue of a resolution passed at the Washington Conference is now in China seeking to discover whether or not China is in a position to claim a revision of the Treaties. The Chinese allege that during the 83 years in which extraterritoriality has existed they have (1) enacted laws, criminal, civil and remedial, which are as beneficent as those of any civilized nation, and (2) that they have established courts presided over by learned and honest Judges who administer the law correctly and impartially. Can these assertions made by the Chinese be substantiated? Are they true? Let us examine the facts.

In the first place, China at the present time has practically no Government at all. Every Tuchun is a Lord unto himself in the district over which he has control. The Peking Government, if it can be called such, is impotent to force the Tuchuns to carry out its bidding. Even at the present moment, when the Extraterritoriality Commission is sitting, Marshall Sun Chuan-fang has declared his independence of the Peking Government. Wu Pei-fu has fought northward through Honan to Peking, claiming that he is the saviour of the people. It is reported that the whole of the two Southern Provinces of South Kuangtung and Kuangsi, are now under Red Rule. The Bolsheviks have permitted the Government in South China to get so deeply in debt to them that they cannot be thrown off at a word.[1] It has been a

[1] North China Daily News, February 9, 1926.

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The International Mixed Court Is a Chinese Tribunal

By Russell B. S. Chen

IN my endeavor to put in a brief and impartial form my opinions of the important controversy now being discussed by the Extrality Commission at Peking, namely, rendition of the International Mixed Court at Shanghai, I have undertaken a very interesting but difficult task.

Voltaire said, "prejudices are the reasoning of fools. That prejudice gets into the pulpit first; reason does not arrive until later on." Bearing the above quotation in mind and aided by my inherent dual role of citizenship and ancestral lineage, being an American by birth and a Chinese by descent, I now submit my discussion of the topic in controversy for your consideration, trying to write from an unbiased angle which factor usually adheres to one who could claim only one country and with it only its ideas and ideals.

What is the Shanghai International Mixed Court?

From a legal point of view the Shanghai International Mixed Court is a Chinese tribunal which undertakes to try all police cases occurring within the International Settlement; to try all Chinese who are criminally charged by foreigners, and to try all such foreigners having no consular representatives; and further, to adjudicate claims brought by foreigners against Chinese or by foreigners or Chinese against unrepresented foreigners. A foreign Consul or his representative sits on the bench having derived his authority of so doing by the treaties which provide that an assessor of the Plaintiff's nationality shall have the right to be present, thereby giving to the Court the term "Mixed." This Court was established in the year 1864, and its procedure was mainly based upon the Anglo-Saxon principles of court procedure. From the year 1864 to November, 1911, the court was functioning practically not as a pure Chinese tribunal but was apparently saturated with a decided foreign or semi-foreign supervision and carefully nursed by the Consular Body. On November 3, 1911, the revolutionaries took over Shanghai, and for a short period of time the Mixed Court was closed. The Consular Body then took control of the Mixed Court and instituted a complete foreign control over the administration of justice. So, up to the present moment of writing, the Shanghai International Mixed Court is no longer a Chinese tribunal, but instead, a foreign tribunal composed of foreign consuls or their representatives as assessors, and a few Chinese gentlemen under the pay of the Municipal Council as magistrates.

Foreign Supervision over the Shanghai International Mixed Court

In order to arrive at any conclusion in our discussion as whether it is proper and legal for any foreign power to supervise to any extent the administration of justice of the Mixed Court, it is necessary to examine the treaties made between China and the foreign countries.

The powers which have extraterritorial treaties with China are Great Britain, July, 1843, June, 1848;

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Some of the Leading Chinese Lawyers In Shanghai

The Future of Extraterritoriality In China

By Wang Chung-Hui
Chinese Representative on the International Court of Justice at The Hague and China's Chief Delegate on the Commission on Extraterritoriality.

THE Commission on Extraterritoriality in China which is sitting at Peking, has been established in pursuance of a resolution of the Conference for the Limitation of Armament, which was adopted on the 10th of December 1921, at a plenary session of the Conference. The "Resolution relative to Extraterritoriality in China", sets forth the nature and scope of the Commission in the following terms:

"That the Governments of the Powers above named shall establish a Commission (to which each of such Governments shall appoint one member) to inquire into the present practice of extraterritorial jurisdiction in China, and into the laws and the judicial system and the methods of judicial administration of China, with a view to reporting to the Governments of the several Powers above named their findings of fact in regard to these matters, and their recommendations as to such means as they may find suitable to improve the existing conditions of the administration of justice in China, and to assist and further the efforts of the Chinese Government to effect such legislation and judicial reforms as would warrant the several Powers in relinquishing, either progressively or otherwise, their respective rights of extraterritoriality."

The task of the Commission is, therefore, twofold; first, the investigation of facts and, secondly, the making of a report with recommendations. The subjects of inquiry will be:

(1) The present practice of extraterritorial jurisdiction in China.

(2) The laws and the judicial system and the methods of judicial administration of China.

Let me endeavor to bring out briefly a few cardinal facts relating to these subjects.

The system of extraterritoriality was first introduced into China some eighty years ago, when she entered into treaty relations with Western countries. The first treaty which formally recognized such a system was the Treaty of Nanking in 1842. Similar provisions have been made in the subsequent treaties with other Powers. This system, which was originally designed as a *modus vivendi* to avoid friction between foreign merchants and Chinese, is now one of the main sources of misunderstanding and conflict. The existence of extraterritoriality is considered by Chinese to-day as an infringement upon their sovereign rights. This feeling is enhanced by the fact that China is now the only great and independent nation in which such system continues. In almost all Oriental countries, where occidentals formerly claimed exemption from local jurisdiction, a new order of things now exists. Japan was the first to terminate this anomalous régime; whilst Siam has also regained her judicial integrity in recent years. The Capitulations in Turkey which dated as far back as the Middle Ages (the earliest granting Capitulations being that of 1528) were abolished a few years ago.

"Is China to remain for all time the victim of this anachronism"?, is the question now asked by people of this country. And this question is not new. Sir Robert Hart, writing twenty years ago, (in his *These from the land of Sinim*), observed, that "the extraterritoriality stipulation may have relieved the native officials of some troublesome duties, but it has always been felt to be offensive and humiliating, and has ever a disintegrating effect, leading the people..... to envy and dislike the foreigners withdrawn from native control." If it was so felt twenty years ago, how much more will it be felt today, when the nation, conscious of its inalienable sovereignty, has become more and more dissatisfied with the relations exisiting between China and the Powers. It is felt that foreigners in China, claiming as they do to be above the law of the land, are assuming the position of a privileged class in the community. In fact, the existing extraterritoriality, is, as Sir Francis Piggot in his *Consular Jurisdiction* remarks, "the recognition of the existence of two separate communities in the same country". It is, indeed, an *imperium in imperio*.

If the foreign community in China had remained the same as it was eighty years ago when extraterritorial rights were first granted, and if it were confined to the five commercial ports which were then opened to

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BELGIUM:	Dr. A. van Cutsem
Substitute:	Dr. A. Sergysels
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The Experiences of Germans Under Chinese Laws

By Fritz M. Witkowski

Far Eastern Correspondent of German newspapers (Shanghai)

Among the countries not enjoying extraterritorial rights in China, we may consider Germany the most important one. Although of course there are living in Shanghai alone more Russians than there are Germans all over China, the fact remains, that these Germans represent financially and socially a quite substantial part of the foreign community in China. And on account of their being engaged in various branches of trade, shipping, banking and other business as well as missionary enterprises their experiences with the new legal status of a foreigner in China can be taken as basis for all future negotiations.

Political opponents of the then British Prime Minister David Lloyd George used to refer to the English elections of 1918 as "helping the man who won the war to loose the peace." Even by cutting out all the more sentimental issues of the Western Hemisphere, there remains with regard to the settlement of the East Asiatic question a lot of truth in this election slogan. It is no more a secret, that it was mostly at Great Britain's demand, that China participated in the Great War. We know by this time of letters exchanged between Lloyd George and Dr. Sun Yat-Sen, in which the latter implored the British Government to save China from the perils of participating in the struggle of the white powers. Dr. Sun, although working all his life for the liberation of China, saw clearly enough what would be the result, if the Chinese people lost their belief in the supremacy of the foreigner before their own mentality was developed enough to replace the foreigner.

The result according to Sun Yat-sen would be that the servants would like to become masters without having the knowledge of the masters. Today we see the younger generation in China, patriotic and filled with as good intentions as they may be, yet wrecking machinery of state by mere inexperience. It would of course lead too far away from the issue of this article to go into the details of this matter, for which we refer the reader to Putnam Weale's "Why China Sees Red", page 172 and following. But in any critical survey of the extraterritorial question first and fundamental emphasis has to be laid on the fact that the Chinese do not believe in the supremacy of the white races and the superiority of the foreigner in China, upon which belief to a certain extent extrality rested.

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foreign trade and residence, the evils of the anomaly in which "a foreigner is in the territory and yet out of it" might have been tolerable. But the number of treaty ports has increased from five to fifty, and, in addition fifty ports have also been opened on China's own initiative. This means that the foreign population has grown greatly, and that the point of contact between the two communities hase, in proportion, increased. Yet, notwithstanding the above, the economic and cultural relations between the Chinese and foreigners have not been brought as close as they might have been in normal circumstances.

Eighty years of experience have revealed the inconveniences and undesirable features inherent in the extraterritorial system—inconveniences and complications which are irksome not only to the Chinese, but also to an increasing number of those who are entitled to the enjoyment of extraterritorial rights. This is attested by the recent testimonials, published in the foreign daily press, emanating from a certain section of the foreign community, in which they declare their readiness to be divested forthwith of extraterritorial rights and submit themselves to the jurisdiction of the Chinese authorities.

There are more westerners in China today who do not enjoy extraterritorial rights than those who are still entitled to such rights, and we need only refer to the Russians, the Germans and the Austrians and others, whose governments have one after another agreed to their being amenable to Chinese jurisdiction. This fact seems to have been overlooked in the meticulous calculations of those who insist that China's judicial reforms shall come up to the letters of her treaty engagements.

I turn now to the second subject of inquiry before the Commission, namely, the laws and judicial system of China.

China has, for the past quarter of a century, been revising her codes and remodelling her courts and improving her prisons. Already there are 260 modern courts, with a personnel of 995 trained judges, and 74 modern prisons, and the Chinese Government has recently decided to devote a portion of the increased Customs revenue for the establishment of 205 additional modern courts and 130 modern prisons. Several of the revised codes have been promulgated, while the rest will be completed before long.

All these are concrete facts, which will no doubt receive the due consideration of the Commission. Whilst China does not claim that all these reforms have been brought to perfection, it is yet admitted that the results of the reforms, and the progress which is still going on, compare favorably with what Siam and Turkey have achieved in this regard, or, for that matter, with Japan had attained when she obtained the relinquishment of extraterritoriality. There may still be room for improvement in our legal and judicial system and in the administration of justice. But the spirit in which China has gone forward with reforms, warrant us in believing that it is time for the old order of extraterritorial rights and privileges to yield to the new order of equality and justice.

The sincerity of the Chinese Government deserves the appreciation of all well wishers. Dr. E. Hioki, the Japanese Commissioner, may be said to be voicing the sentiments of numerous well wishers when he replied on behalf of the members of the Commission to the address of welcome of His Excellency, the Chinese Minister of Justice, as follows:- "We all recognize the fact that the régime was introduced into this country simply as a *modus vivendi* to aid in establishing harmonious relations between China and foreign countries, and therefore destined to abrogation upon the removal of the conditions which called it into being .....It has always been gratifying to us to witness any progress achieved by China. The eagerness of the Chinese people for the abolition of extraterritoriality

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The Courts and the Administration of Justice In Kwangtung Province Since the Republic

By Hin Wong

REALIZING that training preceding action tends to insure efficiency and promote success, the Province of Kwangtung in South China had a School of Law and Political Science for the comparative study of modern government and jurisprudence several years before the final introduction of the system of courts and prisons similar to that of the European and the more enlightened of the Asiatic countries. Governments and administrations often changed in Canton, the capital of Kwangtung, the last few years; but respect for institution preparing officers of law and the administration of justice never ceased, and the first modern law school founded during the Manchu days was able to exist independently until its recent incorporation with the Kwangtung University as one of its collegiate departments. The University, now forming the crown of the Kwangtung public school system, in addition to having well-trained educationists in its departments of engineering, agriculture, arts and science, has in its law faculty jurists now holding the highest seats in the South China jndiciary so that future judges and lawyers may come in touch with the most learned of their exalted profession today.

As early as 1910, the year previous to the Republic in China, in addition to the School of Law and Political Science which required at least three years to complete a course of study, the Viceroy Chang Min-chi in Canton at that time ordered to be organized special training classes to equip candidates for the posts of judges, prosecutors, clerks, bailiffs, coroners, jailers, wardens, and other officers of the courts to be instituted soon, they to take six or twelve months of instruction or the posts necessarily required. During the same time, Peking was also training candidates for the new system to be inaugurated, and when the courts were finally opened in March, 1911, in Canton, the Chief Justice of the High Court and the Chief Procurator or Attorney-General for the Province were filled by Metropolitan appointees bearing Imperial Commission. They enjoyed the rank of a Taoyin or Circuit Intendant.

Little Interest at Beginning

The Provincial High Court, to hear appellate cases from the District or Circuit Courts and the Courts of First Instance or Lower Courts, two lower grades of courts established soon afterward, opened its first session in April, 1911, with Chief Justice Sze Chi-yu presiding. For the first few months the higher courts were not well patronized, and the decisions rendered did not attract the deserved public attention at that time that they merited.

The First Revolution which ended in the present Republic of China followed the autumn of that year and, as most of the new court officials were "Imperialist" so to speak, they being Commissioners despatched from Peking, they deserted their posts upon the success of the Revolutionists in October, 1911, and the Courts did not function for some time.

Restoration of order, however, soon followed and Mr. Lo Wen-kan, a returned student from England afterward a Cabinet Minister in Peking, became Commissioner of Justice in the new Canton Republican Government under Tutuh Hu Han-min. Mr. Lo's duty was to advise the Government in legal affairs, recommend suitable candidates for judicial offices and prison management, supervise the administration of justice, oversee accountings in the whole judicial branch of the Government, and look after law revision or legislation. The Commissioner was more an executive than a judicial official and had charge of no cases civil or criminal except what might be brought to him for review in case certain officials of the Courts were charged of incompetence or of appeals for executive clemency. In his work, the Commissioner was assisted by three deputies or division chiefs, one specializing in civil and another in criminal cases, and the third in prison administration and inspection.

Manchu System Continued By Republic

The Canton Republican Government in 1911 continued the system of three courts for Kwangtung as first inaugurated by the Ching Imperial Commissioners, the High Court entertaining mostly cases civil and criminal of appeal, while the District Courts, in the more important cities and ports, accepting jurisdictions both appellate and original, and the Courts of First Instance, which were at one time found in every district of *Hsin* seat of government in Kwangtung, assuming jurisdiction over all forms of cases in their origin, committing to higher courts suits or charges which, by law, could only be tried by more important tribunals.

At the time of Commissioner Lo, 1911-13, in Canton, efforts were made to have foreign-trained lawyers to preside over the more important tribunals, and at one time the post of Chief Justice in Canton was offered to the late Sir Kai Ho Kai, a Chinese barrister-at law of Hongkong trained in British schools "at Home," something unique a score or two years ago. He did not accept, and among the returned students who later had the honor of heading the Kwangtung Courts were Mr. Peter Hing, A. M., Columbia University in New York, who was also at one time Chief Justice; and Mr. S. Q. Wong, a British University graduate who had practised in Singapore, who acted for nearly two years as Procurator of the High Court.

The system of Courts in Kwangtung, as first introduced by the Imperial Commissioners, has remained practically the same since its first inauguration in Canton 15 years ago, except some changes in name or combinations for convenience. For a time the chief executive official of a district, popularly known as the magistrate in Kwangtung, was given the duty of a judge of the Court of First Instance, in addition to his other functions. Now the Court of First Instance is called a Branch District Court, under the direction of a District Court. In the Canton District Court, the lower court is not called a branch court but the Summary Court.

Since 1912 the Government of the Republic of China has promulgated a number of codes, including those governing commeree, criminal and civil procedures. The Province of Kwangtung, although nominally independent of the Central Government at Peking in many spheres of political affairs, follows all Chinese codes newly adopted by the Chinese Government, and its law offices are governed in their decisions and authority by the general principles, precedent, statutes, and other accepted opinions and practice recognized by the other 260 or more modernized judicial courts throughout China.

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They Are Investigating China's Courts

Mr. John Van Antwerp MacMurray,
American Minister to China and Delegate
of the United States to the Special Tariff Conference.

His Excellency
Johan Michelot, Minister for Norway.
and Delegate to the Commission on Extraterritoriality

His Excellency J. A. de Bianchi, Portuguese
Minister and Delegate to the Commission on
Extraterritoriality.

H.E. Monsieur Henrik de Kauffmann
Danish Minister to China, Danish member to the Commission
on Extraterritoriality in China.

Missionaries and Governments

By J. J. HEEREN

"ON the one hand, we find a group of nations, mainly of the white race, which through one means or another, have in the past years secured certain privileges, rights and territories from eastern peoples. These they are very anxious to maintain and keep as long as possible. On the other hand, we find another group of nations in which the spirit of nationalism and racial consciousness is rapidly growing and which are therefore anxious to recover what has been wrested from them in the past. And there, in a nutshell, is the philosophy of the Pacific situation to-day."[1]

In this situation the missionary labors in a double relationship:

(1) as a citizen of his native land, and (2) as a resident and worker in the land of his adoption.

As a missionary in China he has in common with the traveller and the merchant certain treaty privileges. If for example, he commits murder or manslaughter, if he steals or violates the law in some other way, he is tried in a court presided over by one of his own nationals and judged according to the laws, in the main, of his own country. He can appeal to other higher foreign courts. If he is an American, he has the right to appeal to the United States Court for China, unless this has original jurisdiction, from this tribunal to the United States Circuit of Appeals of the ninth district, and finally, from this to the United States Supreme Court. If he is a Japanese, he can appeal from the consular court in China to the Higher Court in Nagasaki, and from this to the Japanese Supreme Court. If he is a British subject, he has similar privileges. This is the procedure for all cases affecting his person or property.

Status of a Foreigner Who Sues

If the foreigner, whether a missionary or not dies, his will, his bequests and his estate are adjudicated by officials of his own country. If he is the plaintiff against a Chinese, he sues in a Chinese court. But an "assessor," of his own nationality, has the right to attend "to see that the elements of a fair trial are accorded to the plaintiff." If the "assessor is convinced that the decision rendered constitutes a flagrant miscarriage of justice, he may protest at the time, and if, notwithstanding this protest, the decision is not changed, the matter may be referred to the plaintiff's legation in Peking for it to take such action as it may deem best." In other words, if he is sued, the Chinese have nothing to say; if he sues, his assessor, if not satisfied with the decision of the Chinese court, can refer the matter to his own legation in Peking.[2]

In addition to these privileges which he enjoys in common with others, the foreign missionary has the following special privileges:

(1) He may preach and propagate Christianity without molestation;[3] (2) He may lease for his missionary society "in perpetuity" land "in the interior" and erect buildings thereon.[4] (3) He is to secure "effective protection," if he "go peacefully into the interior of the country provided with the regulation passports."[5]

Part Played by Consul

Now, the Chinese authorities are to give the protection needed, are to "defend them from all insult and injury of any sort." If a mob or a riot threaten foreign property, a consul may ask the Chinese authorities to send Chinese troops to disperse such rioters. (Although the above applies to all the nationals in the treaty ports, it also applies to missionaries in the interior, and so becomes one of their special privileges.) Sometimes the legation in Peking sends an attaché or some other representative to urge the Chinese authorities to protect the said legation's nationals. Again, the consul may *advise* missionaries, in times of danger, to leave a certain locality or to go to a designated place for safety. In the case of the Americans, the consul cannot *order* them to leave a place or to go to a "safety zone;" if missionaries choose to remain, they do so at their own risk, but even then "the American Government reserves the right to determine, under the facts and circumstances of the particular case, the measure of responsibility with which the Chinese Government shall be charged in case of failure to accord protection" to American citizens and their property. If a British consul's advice is not accepted, "he will have to consider whether the circumstances of the case justify the adoption of ledgal proceedings. By Order in Council it is laid down that, where it is proved that there is reasonable ground to appehend that a British subject is about to commit a breach of the public peace, or that the acts or conduct of a British subject are or is likely to produce or excite to breach of the public peace, he may be brought before the consul sitting in his judicial capacity and required to give security to keep the peace. Should he fail to give such security, an order may be issued that he be deported from China to such place as directed. Such order of deportation, and the grounds thereof, must be reported to the Supreme Court at Shanghai, before the order is executed. The Supreme Court may reverse the order, or may confirm it with or without variation, and, in case of confirmation, shall direct it to be carried into effect. A consul should, however, exercise great caution before proceeding under the Order in Council, in view of the legal difficulties involved." The Japanese consuls seem to possess greater liberty in issuing orders, and having both "police boxes" and consular police in various places, they can more easily enforce their orders. They cannot, however, inflict punishment upon those disobeying such orders.

In the case of the British and Americans even, if, after disregarding the advice of his consul, the missionary got into trouble, or were captured by bandits, the consuls would still be obliged to help him. Nor would a written request by the missionary "that no form of military pressure (may) be exerted to protect us or our property, that in the event of our capture by lawless persons or our death at their hands no

1. T. Z. Koo. Report of Institute of Pacific Relations, p. 68.

2. What has just been said is true of the vast majority of missionaries and other foreigners in China. It must be remembered, that various countries, as for example most of those in South America, do not enioy extraterritorial rights and that Germany and Austria lost this privilege as a result of the Great War, while Russia surrendered it. Although the countries *without* extraterritoriality exceed in number those *with* it, the overwhelming majority of foreigners living in China enjoy extraterritoriality; i.e., are amenable to their own consular courts.

3. Mayers, Treaties: 92, Article XXIX.
4. Ibid: 341, Article XIV.
5. Ibid: 62 Article XIII.

money be paid for our release, no punitive expedition be sent out and no indemnity exacted," relieve the cousels from the responsibilities imposed by the existing treaties. (Such a statement, however, might have a bearing in the making of claims for damages or indemnities.) Even the repeated failure to register at his consular or to secure passports leaves a national of the extraterritorial Powers amenable to his country's consular courts. A British Order in Council says, "If any British subject neglects to obtain registration under the provisions of this Order, he shall not be entitled to be recognized or protected as a British subject in China, but he shall, although not registered, he subject to the jurisdiction of His Majestry's Courts in China." The position of the United States, was stated by Thomas F. Bayard, former Secretary of State, on February 15, 1888, in an instruction to the American Minister in Peru, in these words, "This Government cannot admit that its citizens can, merely by making contracts with foreign Powers or by other methods not amounting to an act of expatriation or a deliberate abandonment of American citizenship, destroy their dependence upon it or its obligation to protect them in case of a denial of justice". (Moore's Digest, VI: 294). On June 28, 1888, in an instruction to the American minister to Turkey, Secretary Bayard wrote, "It is not competent to a citizen to divest himself of any part of his inherent right to protection or to impair the duty of his country to protect him". (Foreign Relations, 1888, Vol, II: 1519). In short, a missionary cannot in a negative way divest himself of his citizenship, or of a part of it; if he wishes to "renounce all claims" to "citizenship and to the right of protection and indennity", he can do so by "naturalization abroad".

The Matter of Indemnities

In the matter of indemnity, the foreign authorities will not, it seems, include losses that are not presented to them; for example, if a mission or an individual that suffers loss, does not desire to be reimbursed, such losses will not be included in the claims for damages or reparation presented to China. This seems to be, at any rate, the prevailing practice at present. On the other hand, an eminent authority says, "It has already been observed that the Government may prosecute a claim arising out of an injury to a citizen, notwithstanding the fact that the citizen renounces his right to an indemnity, the principle being explainable on the theory that the injury to the citizen gives rise to two independent cause of action, one of the state, the other of the citizen. Nevertheless, unless the offence is particularly flagrant or may be deemed a national affront, the individual's waiver of a right to indemnity weakens the moral, if not the legal right of his government to demand reparation, and the government may well consider itself justified in desisting from pressing a claim waived by the individnal who actually sustained injury as Great Britain did in the Jencken claim against Spain". (Borchard, Diplomatic Protection of Citizens Abroad: 799). In the present situation in China, however, probably few governments would care to press claims in defiance of the wishes of those suffering the injuries or losses.[6]

So much for the relation of the missionary to his own government. In short, his legal orientation is almost entirely in the direction of his own country. Possibly so; but still such is his orientation at present.

Under the existing treaties the relation of the missionary to the Chinese government is that of a religious propagandist whom China is forced both to *accept* and to *protect* without having any effective control over his activities. The missionary does, of course, pay for many of the Chinese government services of which he avails himself. He pays Chinese postage rates, Chinese telegraph fees and the Chinese government railway freight and passenger rates. Usually, the missionary voluntarily obeys the local regulations of the Chinese authorities, although as a rule, these regulations are not binding on him, unless they have been approved by the legation of his country. As their national consciousness developed, the Chinese began more and more to resent these limitations upon the powers of their country to control foreigners, including the missionaries.

What Changes Can Be Made

Now, let us consider, what changes, if any, ought to be made, or might be made, so as to change the missionary's relation, to make him less dependent upon his own government and more so upon the government of China. In other words, can we safely abolish the treaty privileges? If not all, which ones should be thrown upon "history's scrap-heap?" Let us try to answer this by a process of elimination, taking first those that are needed least.

Obviously, the first clauses to consider are those that do not directly affect the missionary but his protégés, native converts. The treaties assure these converts to Christianity: (1) freedom from persecution[7], (2) liberty of conscience[8] and (3) exemption from paying "taxes levied and contributions for the support of religious customs and practices contrary to their faith.[9]"

Whenever the writer has discussed these clauses with Chinese Christian students, the students have always almost unanimously insisted that this treaty protection of native converts should cease. This attitude seems to be shared by the majority of educated Chinese. What, however, is there to take he place of these clauses? Chapter II. Article 6, (g) of the Provisional Constitution of 1912 says, "Citizens shall have freedom of religion."[10] Chapter IV. Article 12 of the Permanent Constitution of 1923, since revoked, says, "Citizens of the Republic of China shall have the liberty to honor Confucius and to profess any religion, on which no restriction shall be imposed except in accordance with the law."[10]

With these constitutional provisions let us compare the following: (1) Article 50 of the Swiss constitution, "The free exercise of religious worship is guaranteed, within the limits compatible with public order and good morals."[11] (2) Two articles of the Dutch constitution; Chapter VI. Art. 167 says "Every person shall be absolutely free to profess his religious opinions....."[12], and Article 168 reads. "Equal protection shall be granted to all religious denominations in the kingdom."[12] (3) The first amendment of the American constitution which provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;"[13]

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6 For most of the preceding paragraphs consult Willoughby, Foreign Rights and Interests in China: 8-80; 193-207, and Hinckley, American Consular Jurisdiction in the Orient.

7. Mayers, Treaties: 62, Article XIII; p. 341, Article XIV
8. Ibid: 341, Article XIV.
9. China Year Book, 1925: 634.
10. China Year Book, 1925: 695.
11. W. F. Dodd, Modern Constitutions, II: 272.
12 Ibid, II: 113.
13 Ibid, II: 306-307

(*Continued on page 77*)

Views on the Hankow Mixed Court Situation

By Peter S. Jowe

"THERE is no question but that the removal of extraterritoriality in China is a prerequisite to China's independence as a nation. Besides this, the existing extraterritorial system in China is such that no independent state in the world at the present time can afford to suffer to exist. It has by far outlived its usefulness, and is beyond all doubt detrimental to our national interests. I make the above statements not from any theoretical or sentimental standpoint, but from my actual experience in my present office during the past several years," said Mr. Chen Chieh, Commissioner of Foreign Affairs in Hankow, in an interview with the writer. "The most apparent disadvantage," continued Mr. Chen, "is the abuse of their extraterritorial rights by nationals of of the less upright states. Under the cover of extrality, such nationals commit crimes of the most flagrant nature, and because they are subject only to their own laws, it often become impossible and beyond the power of the Chinese government to seek redress for the Chinese party to whom such wrongs are committed."

CHEN CHIEH, Esq.
(陳 介)
Commissioner of Foreign Affairs for Hupeh
外交部特派湖北交涉使

Questioned as to the actual conditions in Hankow with respect to the so-called Mixed Court, Mr. Chen said that the Mixed Court situation in Hankow is a peculiar one and bears little semblance to the Mixed Court of the International Settlement of Shanghai. What is called the Mixed Court in Hankow is merely the outgrowth of custom. The essential difference between the Hankow Mixed Court and other such courts is that the Hankow court is primarily concerned in police affairs of the Concessions. Mr. Chen also gave the following views and information regarding the extraterritorial situation in Hankow. In view of Mr. Chen's long experience in his present office and his wide knowledge of the existing status of Sino-Foreign relations in this territory, his proposal regarding the removal of extrality in Hankow contained in the following paragraphs in worthy of particular attention:

"In Hankow there is no such an institution as the Mixed Court in the strict sense. What we have in its place is the *tsu-kăi-yang-wu-kung-sho* (租界洋務公所) which the foreigners in part usually call the Concessions Mixed Court, in the absence of a better name. It was established in the 21st Year of Emperor Kwang Shu in the Ching Dynasty, 1895, when it was reorganized from the *yang-kai-pao-chia-chu* (洋界保甲局) or the office of the District Protector of the Foreign Concessions. At the beginning, the function of this office remained practically unchanged, although it assumed a new name. It continued to act as protector of peace in the Concessions, and concerned itself in police matters of the latter area. However, in the course of time, this office automatically extended its authority, and on account of changing conditions and new requirements it soon assumed jurisdiction over all lawsuits between foreigners and Chinese. The practice has now become so established that no one would question the propriety of its existence.

"When I came to Hankow several years ago I was surprised to find the undefined nature of the authority of this office. Since that time, my endeavor has been to so limit its functions and authority as to eventually lead it to operate in its proper channel. Because, the authority of this office, at its utmost extension, should not exceed the Yangkingpang regulations of Shanghai. But the *yang-wu-kung-sho* (洋務公所) in Hankow has exceeded all the Yangkingpang provisions in that it accepts purely Chinese cases and treats them in the same manner as mixed cases by allowing participation of foreign Consular officials in the Court sitting. It also exceeds its authority by giving sentences of more than two years' imprisonment. In other words, the Concessions Mixed Court of Hankow directly interferes with the authority of the Chinese officials who should exercise jurisdiction over many of the cases hitherto handled by the Court. It is my opinion that by narrowing the authority of the Court to its proper constituency Chinese sovereignty would be preserved accordingly, and for this reason, I have not spared efforts in the past years to bring about the necessary revision.

"For the period of transition before the complete abrogation of extraterritoriality by the Powers, I think there should be a temporary arrangement, whereby such institutions as the Mixed Court may gradually transfer its jurisdiction to the local Chinese authorities. In Hankow, I would suggest the following three points as essential to any transitional arrangement to be made;—

VIEWS ON EXTRATERRITORIALITY

Marshal Wu Pei-fu

"It is stated in the Classics that in ancient days when a foreigner desired to come to China he had, first of all, to find out what was prohibited in our land and then after entering our territories he was expected to study and learn about our traditions and customs. But since the Boxer troubles of 1900, foreigners entering China have enjoyed the so-called extraterritorial rights and thus have ignored the old customs and practices of foreigners entering China. Today, foreigners are not only tried by their respective consuls but in many cases Chinese citizens have come under foreign consular jurisdiction. This situation is wrong and some method must be found to change this state of affairs.

"The principle of extraterritoriality has existed for many years but has been more clearly defined since the time of the Boxer troubles. These special rights enjoyed by foreigners have led to profound dissatisfaction and ill-feeling on the part of the Chinese people.

"It is my earnest hope, therefore, that after the Extraterritorial Commission has made an investigation of existing conditions in China, the Commission will do its best to remove this obstacle to the promotion of friendly relations between China and foreign nations. I am neither a student of law nor a diplomat, hence I am not qualified to express anything but my personal views on the subject of extraterritoriality."

"(1) Within the Concessions, all civil cases arising between Chinese citizens and people not enjoying extraterritorial rights, should be handled by the local Chinese courts, and the Concessions Mixed Court should cease to accept such cases which properly belong to the Chinese authorities.

"(2) In criminal cases arising between Chinese and people not enjoying extraterritorial rights, resident in the Concessions, the Court should only concern itself in minor infractions of police regulations, while cases above that should be handled by the Chinese courts.

"(3) All cases between foreigners and Chinese, whether within the Concessions, or not, should be handled by the Magistrate of Hsiakow (Hankow district). But before actual litigation begins, the Concessions Mixed Court can accept them for arbitration settlement, when such cases are either sent in by petition by the parties concerned, or instructed by the office of the Commissioner of Foreign Affairs, or requested by the Consulates concerned.

"This would put Concessions Mixed Court in the place it belongs. In the meantime it would pave the way for the realization of judicial independence for China. When the Consular jurisdiction of the foreign Powers is withdrawn, it would be a simple matter for the Chinese Courts to assume full jurisdiction.

"The Concession Mixed Court also has a Detention House to hold its prisoners. It was established in the first year of the Republic, 1912, when the yamen of the Hsiakow magistrate could no longer accommodate the prisoners thitherto sent there for temporary detention. At first the Detention House only took in prisoners of shorter terms, while those serving long terms were sent to the Hupeh Provincial Model Prison. Several years later accommodation in the Model Prison proved inadequate, and prisoners from the Concessions in Hankow had to be taken care of by the already over-crowded Detention House, which practice continues to the present. The Detention House, while primarily intended to accommodate breakers of police laws and prisoners of a temporary term, has now become a prison by itself, taking in all and sundry irrespective of the nature of their offences and the terms of their confinement.

"Of course, pending the relinquishment of the extraterritorial rights by the Powers, there must be a place like the Detention House to accommodate breakers of the Concession police regulations after they are sentenced jointly by the Consular official and the Concession Magistrate, or the chief of the Court of Foreign Affairs. The House is now in rented premises which are both crowded and unbecoming. It has been my ambition to secure some govenment property to erect a modern and sanitary quarters for the use of the Concession court, and I hope my plan in this connection will materialize at an early date."

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CHINA WEEKLY REVIEW

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Chekiang Judges Hesitate When First Foreigner Comes Up for Trial

By E. H. Turner

BECAUSE of its abundance in things material and the beauty of its scenery Hangchow is called "Heaven Below" in both history and in current talk. At any rate it does have scenery which delights the eye of the visitor. Among its show places, and by no means the least, are the law courts of Chekiang Province. They are housed in a series of modern buildings which one approaches down a modern macadamized road across the remodled old Manchu City. To the rear as one approaches the courts and at the opposite end of the ninety-foot macadamized road is the city hill and on its summit the city temple. In this city temple on top of the hill over-looking the city is the temple of hell, another of the show places of Hangchow.

The approach to the temple takes one across an open court on either side of which are plaster models of the Taoist conception of hell and heaven, with more of hell than heaven visable therein. So at one end of the spacious boulevard the law courts, representing one of the high conceptions of civilization—justice; at the other end the temple of hell, representing one of the grossest conceptions of fear and superstition—fear.

As one makes the rounds of this temple of hell he passes in turn before ten stages of judgement and punishment, portrayed in a way that most effectively plays on ignorant fears. Each stage is a court, with its attendants and judges. Man's destiny in the after world is pictured here; its nature is determined by the sort of life the man has lived on earth. At the end of his day, he is brought before the judges, tried and sentenced. In some cases he is sentenced to imprisonment, in others to scourging; at times he is fed to wild beasts, or confined with snakes; again he may be beheaded, or drawn and quartered, or even sawn asunder. There are various kinds of officers in each court whose duties are to carry out the sentences pronounced. The victims of the judgements are represented by graphic plaster figures, suffering their fate at the hands of the court menials. That is one conception of justice, so horrible that one takes comfort in the decaying figures of the judges and executioners of the courts and the falling walls which enclose them. It has to do with the past and the dead—the world of the spirits.

A Progressive Spirit Shown

Let us turn now to the other end of the street. Here one finds himself in the modern world and face to face with progress. He finds walls and buildings in repair, a regular routine and order, and judges who, in formal robes and caps preside with dignity over their courts. He meets men of culture and training, most of them returned students from Japan, a few who have studied in other countries and more who were trained in the schools of China. Most of the officials have seen service in the courts for more than ten years, thus representing in the aggregate no small body of experience. If the impression one gets from the ordinary man is to be trusted, they are a body of men who are worthy of respect. The history of the court would bear that out, it is free from scandal, and as time goes on their tradition for efficiency and fairness gathers strength. There is a group spirit of loyalty and pride which one who knows them even in a limited way does not fail to notice.

The history of the courts goes back to the last days of the Manchu dynasty, and when the young boy emperor, now in exile in Tientsin, was beginning to count the third year of his reign the present buildings began to go up. Their appearance indicates that they have always been kept in repair. Just now, in anticipation of the indefinitely delayed visit from the commission on extraterritoriality, they are being repaired again and put in the best possible condition. In a nearby compound the model prison is also undergoing repairs which will bring it into conformity with modern practice in the care of prisoners.

Right of Appeal Seldom Used

All of this, however, is surface impression. What of the courts in their inner workings? With headquarters here in Hangchow, the provincial capital, they reach out into the province thru branches of local, district and magistracy courts, making a system which is accessible to every section of the people. If "Momo-ren" in a city like Kashing has a case it will come first before the local court, and next, if he appeals, it will be taken into the Kashing district court. If in this court he does not find satisfaction, an appeal will bring the case up for trial again in about twenty days in the Provincial Court in Hangchow. From this court there remains still the possibility of appeal to the supreme court in Peking, which will simply review the records and evidence as submitted by the lower courts, and render its decision. In passing it may be observed that the right to appeal is exercised far less frequently than in the courts of America, and that justice, or at least the end of the case, is arrived at far sooner and with less resort to the tricks of the trade than in the courts of America to-day.

This is the regular routine, but both criminal and civil cases occur in districts where there are no regular courts. In such cases resort is had to the magistrate's court, and if not satisfactorily settled there appeal will bring the case into the regular channels of the district and provincial system. The special court of the magistrate is much more used now than in earlier years immediately after establishment of the system of modern courts. At that time most of the larger cities had their district courts. Gradually as experience, efficiency and ecomomy in operation have dictated the number has been reduced until now there are only eleven district courts, or really four district courts, one for each taoyinate, or tao district, in the province, with seven others of equal rank situated in geographically accessible centers of these four taodinates. These courts are first in the districts of Hangchow, Ningpo, Wenchow and Kinhwa and then in the advantageously situated cities of Kashing, and Huchow in the Hangchow district; Shaoshing and Taichow in the Ningpo district, tho in practice Shaoshing deals with Hangchow; Chuchow in the Wenchow district and Chuchow and Yenchow in the Kinhwa district. During the last year for which data are available a total of 22,132 civil and 25,580 criminal cases were tried in these eleven courts. The court district furnishing the greatest number of cases was that of Ningpo, with a record of 7,016 civil and 8,876 criminal cases. The smallest record is in favor of the Yenchow district with 911 civil and 1,122 criminal cases. To the wild mountainous section city of Tongyang, in the Kinhwa district goes the palm

A view of the Chekiang Provincial Court grounds taken from the entrance. A cement paved semicircular pathway, dividing at the gate-house takes one around the court buildings and into the flower gardens of the grounds. The buildings were built in the third year of the Boy Emperor, Sien Tong, soon after the modern system of courts was adopted for China. The building in the foreground is the Hangchow District Court Building.

The warden of the model prison of Chekiang Province. There are from 400-500 prisoners under charge of this officer, each of whom is given training in one or more trades. Each prisoner is given one-twentieth of the income from the sale of the goods he turns out in the prison work rooms. The prison is well kept, and prisoners are well taken care of by the authorities.

An oblique view of the main building of the Hangchow District Court. This court of the Hangchow district was the scene of the first trial of a foreigner in the history of the modern system in China, when a Russian subject was charged with obtaining silk goods by fraud.

for the greatest number of cases, both civil and criminal so far as individual cities goes. Here there were 640 civil and 1,205 criminal cases. The records show the little city of Nantien in the Ningpo district to have had only twelve civil cases, while the smallest number of criminals cases are recorded againt the Chuchow district city of Zetsang. The cost of operating the courts for the year was approximately a half million dollars.

Tho there are these eleven district and sub-district courts scattered throut the province of Chekiang, the larger number of special magistracy courts foreshadow the final system as contemplated and planned by the Department of Justice in Peking. The lack of finances here which is as real in so many other departments of state makes it necessary to hold to the present geographical division for the present, but the final working out of plans calls for the abolition of these district and sub-district courts and the establishment of a series of seventy-odd courts, one for each magistracy, in the province. This does not mean that the local magistrate will have jurisdiction over the courts, or that he will have any connection with them. They will still be separate from local governmental machinery, and there will be judges and officers as usual.

One feature of importance to the foreigner who is looking forward to the day when the Chinese courts will have jurisdiction over him is that the courts are not static. They are growing. They are not yet as effective as they will be, and primarily because of a lack of intelligent public interest in them and a well trained body of lawyers. The courts now have to bend to the people, and of course there is not enough public concern to keep the courts on their mettle. Even the case of the first foreigner to be tried before the local courts did not draw an interested crowd of spectators. At a maximum the number of spactators at the trial did not reach fifty. Again in the most spectacular criminal case in the history of the courts, that of the normal school student who was tried for bribing the school cook to put arsenic in the students' rice, resulting in the death of twenty-four and the deadly illness of more than 200 others, did not at any one time have as many as 150 spectators, and there is seldom more of the tragic appeal to the public than this case had to offer. The largest court room in the buildings here will not accomodate 250 spectators, or "those who hear on the side" as the Chinese puts it. This, however, is not criticism, but rather a statement of conditions and is by the way.

As a matter of fact these various courts thruout the Province have machinery for handling their work, and they seem to be doing it as effectively as can be expected. There is frankly expressed knowledge on the part of court officials and the legal body generally that they are not all that they ought to be to meet the

Left: The building which houses most of the activities of the Chekiang Provincial Court. Into this building comes all the appeals from the district courts throughout the Province of Chekiang. The most responsible officers have been with the Court for more than ten years, and feel prepared to withstand the shock of jurisdiction over foreigners when it comes.

Right: A winter-time view of a section of the gardens of the Provincial Court grounds of Chekiang Province. The gardens are well planned and furnish a fine setting to the buildings in the center as well as for the series of offices and living quarters around the borders of the grounds.

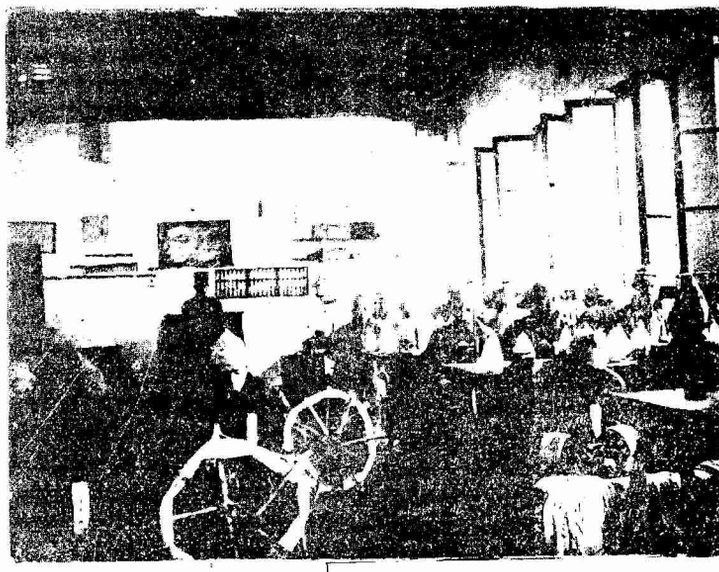
test which jurisdiction over foreigners will face them with. They realize that there is a lack of trained lawyers, and that the courts have to speak and even act in terms which the people will appreciate and understand as they are becoming educated to the modern administration of justice. They feel, too, that many of their penalties are too severe and that before they can take a full place in the legal house of the world that they must lighten these and build up an enlightened public interest in their efforts. Thus far they have felt that severity was the only language in many cases by which they could convey respect for the law into the minds of an illiterate public. There is no confusion in the working of the courts, nor in the minds of its personnel. They are clear as to their duty, but there is outside the courts a tremendous point of confusion. That is the plainly open hand of militarism.

The Hand of the Militarists

There prevails thruout the Province an arbritrary martial law. Few can give reasons for it except the power which lies in the army and its desire to use it. It is admittedly a temporary state of affairs, but it has been in force for more than three years now, and change in administration brings no change in this state of affairs. Roughly speaking, robberies both within the cities and in the country districts come under the jurisdiction of the military courts. It the robber is lucky his case may be tried in the regular courts, which at least are not likely to order his execution without trial. On the other hand if the robber is caught red-handed, or detected on report of others and is apprehanded by the military powers he is with little ceremony and usually without trial promptly shot, or more recently, reverting to the methods of the days before there were courts, beheaded near the scene of his crime.

The saving feature of the situation, so far as the foreigner and the abolition of his extraterritorial privileges go, is the fact that the militarist is keeping his hands off the civil administion of the courts. However, this hand remains the greatest stumbling block in the path of Chinese jurisdiction over the foreigner. Aside from his love of exercising power, search as thoroughly as he may, one can find no justification for the militarist's interference in the administration of justice. The courts realize this, but can do little to correct the fault. So far there has been at least a semblance of recognition of the regular courts by the militarists. In the case of arrest and conviction of criminals, they execute and then report to the courts. Occasionally, too, they request the courts to hand over criminals to them, and the courts obey!

The confusion inherent in this situation could be cleared up within two weeks if the military powers would play a fair game. There is no justification for their interference in cases outside their own ranks. Members of the local bar association are of the opinion that the courts of the province are better than the average for the country, and it is certain that long before militarism took a hand that the regular police force, which was built up by present Civil Governor Hsia Chao while serving as police commissioner for the Province, was an effective agency for law and order. The way out lies in the willingness of the military leaders to cease interfering with the regular courts and cooperate with them by handing offenders over to them for trial. This will put the administration of justice back on a normal basis, and there will be opportunity then for the courts to attend to the reforms which they themselves feel ought to have consideration. If this can not be done the unwillingness of foreigners



Two views showing prisoners of the "Model" Prison of Chekiang Province, Hangchow, at work at the various trades which they are taught. They receive a small percentage of the proceeds.

to have their extraterritorial privileges suspended is not to be wondered at. The foreigner does not want discrimination, but he does want a guaranteed and unimpeachable right to take his troubles into the regular courts. If Chinese citizens are being robbed of this privilege inherent in democracy, naturally the foreigner does not want to surrender his right to protection by his government.

When questioned recently the chief-procurator of the Provincial courts expressed himself as feeling that so far as the law and the court system are concerned that the abolition of extraterritoriality would call for no special changes other than those already contemplated in the plans of the department of justice. "The laws", he said, "are codified, and there is a regular court procedure which has become established thru twenty years of practice and experience." When asked directly if there would be any difference in the treatment accorded a foreign and Chinese plaintiff, or defendant, his answer was that so far as the law goes there would be no difference, but that in case of imprisonment there would be differences dictated entirely by the manner of life the prisoner had been accustomed to. A foreign prisoner would be given special considerations which would make for his comfort both in living quarters and food. Aside from these concessions for sake of creature comforts there would be no difference between prisoners of differing nationalities in the eyes of the court.

The Case of the Russian

This statement of special consideration under such circumstances was borne out last year by the only case of foreign nationality the local courts have had. There was the case of a Russian who had obtained silk under false pretences. The prisoner spent his first night at police headquarters, where he was given bedding. The following day he was lodged in the regular jail. While awaiting trial the prisoner was given a foreign bed and foreign meals. A couple of weeks after the arrest the case came to trial. The court was manifestly nervous at the prospect of the first test of its extended jurisdiction. It hemmed and hawed, and the chief-judge even suggested that perhaps the best way to handle the case would be to take the prisoner over to the Japanese consulate, and request the friendly judge there to try the case on their behalf. Thereupon "a Daniel came to judgement."

The court had no sooner made this proposal when the young lawyer who had been appointed to defend the prisoner rose and in vigorous protest demanded the case be tried as usual. He further asked this pertinent and effective question, "Are we a dependency of Japan that we should ask her consuls to try our criminal cases?" To quote further, "If we are to get ready for the abolition of extraterritoriality, we must get ready. This is our first case with a foreigner who is amenable to our laws and subject to our jurisdiction, shall we pass him over to a representative of a foreign power for trial? I have been appointed to represent the defendant, and I demand that his case be tried here in this court." Such boldness of speech had its reward, and the case proceeded.

In the trial the young lawyer was less successful, for his case was lost. The defendant was sentenced to eighteen months' imprisonment. The lawyer appealed the case, and the defendant was released on the payment of a cash bond of $500. This was the end of the case so far as the local courts are concerned, for the defendant jumped his bail, forfeiting the cash bond, and went, so the court heard, to Tientsin. Records of the case were sent to Tientsin with instructions to effect the arrest of the man concerned. On last report he had not been found.

Courts Preparing for "The Day"

Looking forward to the day when they shall be responsible for the conduct of the forigners within their district the courts here are making preparation. They are spick and span, and dressed in new paint. The already attractive gardens are receiving new touches. Every office and department in the various buildings within the compound is freshly labeled and repairs have been made where necessary. More than once the court attendants, the guards and the coolies have had new uniforms in expectation of visits from the commission of the nations. Over in a nearby compound the model prison has been repaired and in parts rebuilt to make it more model still. In every way possible the best foot is being put forward, but with it all there have been no changes in the law, nor in the procedure of the courts. They stand where they are unless there are changes in the code. This is the opinion of the officers of the courts, and there can be no objection to that. The questions which rise in the mind of the foreigner who may become subject to

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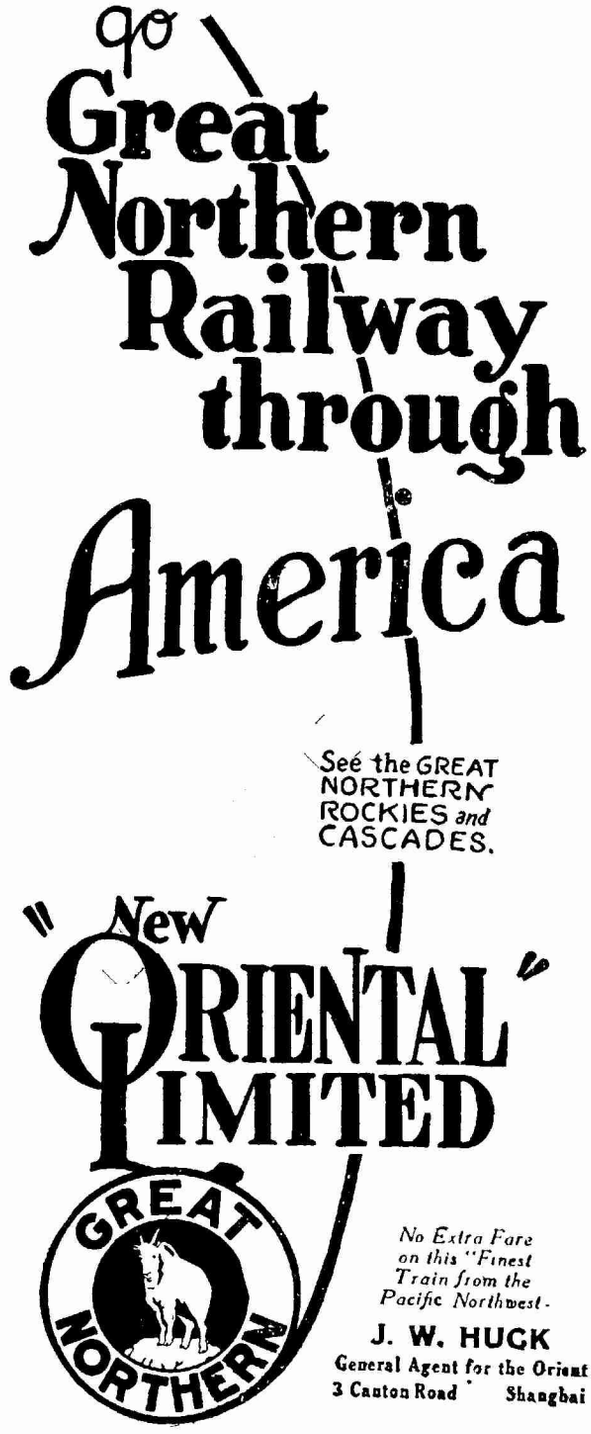
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No Extra Fare
on this "Finest
Train from the
Pacific Northwest.
J. W. HUCK
General Agent for the Orient
3 Canton Road Shanghai

The Chinese Courts And The Administration of Justice In the Interior of China

IN connection with the compilation of material for this issue of *The China Weekly Review* letters were sent to a number of foreigners and Chinese residing in interior parts of the country. Many of those who replied stated that owing to the disrupted political situation, and the height of local feeling; it was difficult for them to send in reports. One man, an American medical missionary located in Shantung, wrote:

"The people in this district are so excited over the question of the unequal treaties that anything appearing in print as coming from this city undoubtedly would be laid at my door, and would adversely effect the work of our hospital. I am afraid that should I write anything which might be displeasing to local officials or radical leaders, that it might start an agitation which would force me to leave the city and close our hospital. There is a great cry for abrogation of treaties but almost a total lack of knowledge of the manner in which a Court of Justice should function. I have seen some twenty Magistrates in the ten years I have been here, and with one exception they have dispensed justice to the highest bidder. Because this one Magistrate tried to render just decisions he was accused and had to leave after five months. I can see little difference between present conditions, so far as method is concerned, and those at the time the treaty relating to Extraterritoriality was made. I am firmly convinced that in principal Extraterritoriality is bad, but under such conditions as one finds today in this section of Shantung owing to military dictatorship, nothing else is possible. Just as soon as conditions warrant it I am heartily in favor of abrogation, but until things are radically different my humble opinin is that the treaties should remain as they are."

FROM ON IMPORTANT CITY IN SHANTUNG

"The operation of the judicial system in this district follows the usual Chinese lines, and depends largely upon the character of the local officials as to its efficiency or justice A few years ago we were unfortunate enough to have a man as Magistrate who had conscientious scruples against capital punishment, and the Chinese unanimously laid the sudden increase of lawlessness during his regime to that reason. This Magistrate was followed by a man of action and the situation immediately improved, although the military situation has rendered futile the many attempts to clear the country of bandits. As for civil cases there is no doubt that the better class of officials try to administer justice according to Chinese ideas, which are much more personal and elastic than our Western ones. The difficulty is that influence is often more potent than right and with the best officials there are still the yamen runners who make their living off guilty and innocent alike. For example, there was the case of two rival business men. One of the men was murdered in his own yard. Suspicion immediately centered on the other who was arrested and had to spend a considerable amount of money on fees to the yamen underlings until the crime was fixed on another person. The money spent, however, was lost forever. Certainly any proposition for the abolition of Extraterritoriality would have to leave room for appeal and investigation by high authorities and even foreign Consuls in the case of rank injustice. Foreigners living in China would be expected to submit to the standard law of the land even if it differed from their own country's statute laws, but very few foreigners would submit to the rank miscarriages of justice which the Chinese continually endure. The whole matter is extremely complicated by the military situation and weakness of the central government, for paper provisions made in Peking have very little effect here. However, the matter on which foreigners have expressed the most dissatisfaction is that of taxes and extortation. We see on every hand promising and useful Chinese enterprises squeezed out of existence by demands of petty officials and especially the military, until one cannot have very much confidence in the present situation much as we all admire the Chinese as a people and sympathize with their national inspirations.

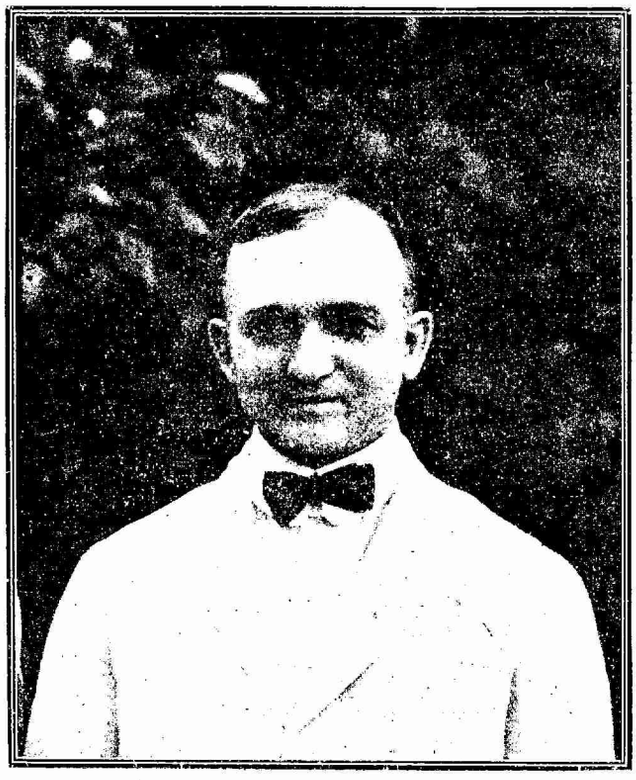
FROM THE CITY OF HUANGSHIEN, SHANTUNG

The court system of this district is the same as found generally throughout the country. The local "Hsien" or county court is presided over by the local Magistrate who serves without jury in both civil and criminal cases. Such cases as are appealed go to the 'Tao' or District Court, of which there are four in Province of Shantung. Cases appealed to higher courts from the district go to the Provencial Court.

Since the Magistrate in the local court is not only a judge but an executive, it renders the matter of passing judgement fairly to be very difficult, since the Judge should consider the accused innocent until he has been proven guilty, and the executive vice versa. And the fact that as executive he must secure funds to maintain his court and its system, renders the case even more difficult. To quote an educated Chinese of this district on this phase of the local court system, "nearly all the Magistrates are just, but they sometimes are compelled by human distinctions, and decide something not quite just."

In civil cases money is frequently used to secure favorable judgment, the degree of its power being entirely dependent upon the character of the judge and the extent of influence of the persons involved. A story is frequently heard of a man who paid the sum of $500. to secure favorable judgement, but whose opponent put up $1,000. to secure favor. When the case was under consideration the man who had donated the small sum was commanded to bare his back to be whipped. He raised one hand with his five fingers extended towards the judge, indicating the sum he had paid for judgement, and said "Judge, Judge, I have truth and justice on my side." The judge in reply raised both his hands, and extending all of his ten fingers said to the man as the attendants were beginning to flog him, "That man has truth and justice doubly on his side."

In criminal cases, money is effective in reducing fines, or terms of imprisonment, though it seems that personal influence of those acquainted with the accus-



Mr. M. F. Perkins, American Technical Advisor to the Commission on Extraterritoriality.

Baron Carl Leijonhufvud, Charge d'Affairs for Sweeden and Delegate to the Commission on Extraterritoriality.

ed have as great influence in such cases as does financial pledge.

"Lawyers as thought of in the Anglo-Saxon court terminology, do not exist or function, though there are men who are available, to write out cases in proper phraseology, but these men never appear in Court.

"Appeals are possible but only at great expense of money and time. A common saying of the people is:

"The Local Court, uses three months,
Appeals to the District court, uses six months,
Appeals to the Provincial Court, it is impossible to reap a harvest for a year."

"Another saying that portrays the attitude of the populace towards court settlements, is "Min yang hin, Kwan Ch'i Yin," which means that if one who is in trouble gets his case settled by an uninterested and fair party outside of court he will have peace, but if the case is taken to the court, the officials will "eat" him. And still another saying states that "even though your sins are great or the sins of another are great, only in extremity take the case to the yamen."

"Upon investigation it seems that the work of the police force regarding law enforcement in this area is not very clearly defined. It is generally understood that the opium traffic and narcotics sale is under the surveillance of this department. A man who wishes to run an opium house secures protection from the police, and unless the police authority changes hands, or the police are hard hit for funds the houses are not raided. Other duties stipulated are those of detecting spies, stopping brawls in the streets that might occur, and when on duty in public thoroughfares to regulate traffic.

"I cite an instance to show how far the effect of personal influence works, which seems in the end to be the greatest power which can be secured in all so-called legal matters.

"Some years ago two young men took oath to become sworn brothers for life. One of these young men has become a high official. The other men died recently. After his death his family moved out to a village near here and sought the purchase of land, land which formerly had been in the name of their family, but had been sold some years ago at a small price compared with present prices. When their request was made known, and they stated the amount that they were willing to pay for the land, which was the same that it had been sold for in the past, all of the owners declined to sell. But when the family who were seeking purchase let it be known that they could get the influence of the high official, a friend of their family, to make it hard for the owners of the land if they did not sell, more than forty Chinese acres of land were bought by the family of the deceased friend of the official, at a price much lower than the present market value, and at great loss to some who had recently bought parts of the land.

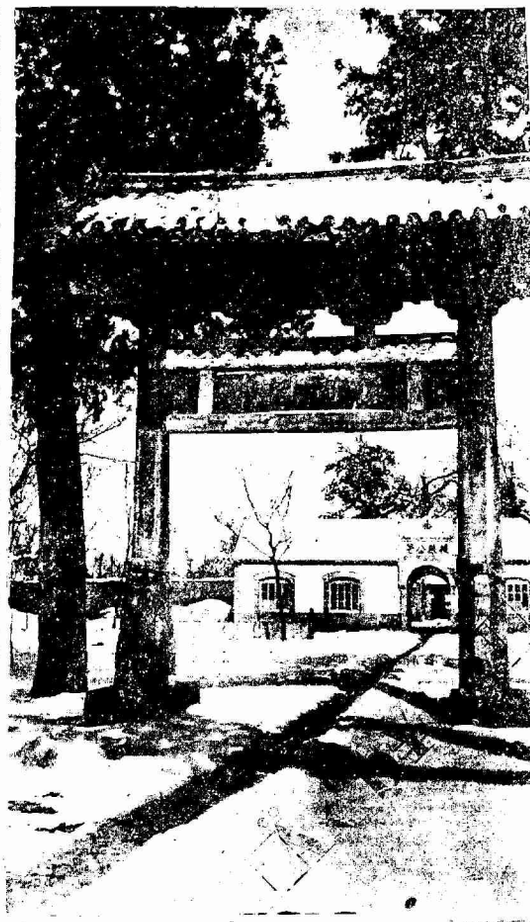
THE SITUATION AT CHEFOO, SHANTUNG PROVINCE

"The City of Chefoo has about 1,000 foreign residents who enjoy Extraterritorial rights. Due to the location here of a large English School about one-half of the foreigners are in missionary and educational work, and the remainder in business. In addition to those enjoying Extraterritoriality rights there are about fifty Germans and a like number of Russians whose countries have renounced their Extraterritorial privileges.

"In general meetings of the foreign business men here the question of losing extraterritorial rights has been discussed. All are unanimous in believing that the Chinese are not prepared to give nor to get justice in their courts at present. It is strongly believed that the greater part of the business men would leave if

made subject to the Chinese law. That the efforts the foreigners have put forth and the rules governing their settlement which makes it a desirable place not only for their homes but also for many summer visitors, would be disregarded were it entirely in the hands of the Chinese, is the general impression here.

"The missionary bodies represented here have also had meetings in which the subject of extraterritoriality has been discussed. Although affected differently by it than the business men, and although willing to stay at any cost where at all possible, the large majority of the missionaries feel that the Chinese are not prepared to give justice in their courts. The majority also feel that doing away with the treaties which protects the foreigners from the unjust treatment that the natives receive in their courts, would not improve the relationship of the foreigners and natives. Although a great many missionaries in this section are inland and are largely at the mercy of the natives, the fact that they have certain rights as foreigners and can appeal to their consuls for justice, is a restraining influence on the rulers who would take advantage of them, and in fact makes it possible for them to carry on at such times as have existed during the past few years.



Right: Outer entrance to the "Model" Prison, Lai Chow, Yichsien, Shantung Province, showing portion of the 15-foot stone wall which surrounds the inclosure. Note the square hole in prison door which is used for communicating with the prison keeper and for convenience in passing through things to the prisoners.

"Although contrary to the practice of missionaries to have anything to do with Chinese Courts, they are perhaps better prepared to judge them than any other foreign group in China. They are close to the people and hear the cruel treatment they receive from all officials. They visit the prisons and see with their own eyes the pitiful conditions of the prisoners. They give their lives for the natives and naturally want the best for them. They depend upon good will rather than and other protection, but know too much about the Chinese courts to desire to be subject to them.

"In expressing the feelings of the different groups of foreigners here on the subject of extraterritoriality, we voice the opinion of the large majority of the Chinese citizens. Most of them are patriots in the true sense of the word. They realize their inability both to get justice for themselves and to insure it for others and are frank to say so. They feel humiliated by the fact and are willing to do their best to remedy it but see no way to do so as long as the militarists dominate and everything is so unstable. Certainly very few would say that Extraterritoriality has caused any strain between themselves and the foreigners. Most would agree that it has been a good thing not only for the foreigners but for the natives as well, and that peace can best be maintained by it.

As to the courts in Chefoo, they are of the old style without any written code of law or jury to try the accused. The judge has complete power in passing judgement according to his wishes, and is left largely to his own initative as to what the judgement should be. In the case of a law suit between two parties, both usually come out looser, the time consumed in the case depending upon how long the money of those involved lasts.

Left: A winter scene showing Pailou and entrance to the Yamen or County Court of Lae Chow, Yichsien, Shantung Province.

"We know of a case where two parties were in law over a large school house that had been built in the community. The case lasted for seven years and was just lately settled. While the case was in court the school was left vacant and is now ready to fall down. Both families involved are proved to be innocent only after all their wealth was gone.

"Fearing the sorrow that has befallen so many others the people here will seldom take a greivance to law. Last year the Chinese teachers of a mission girls' school took some of their students for a boat ride. While out they were run down by a large sail barge and one teacher with ten students were thrown into the deep water. The bargeman fearing some casualities did not stop to render the drowning girls any assistance and two of them died. Had it not been for some fishermen near by none of the eleven would have escaped death.

"Naturally the foreigners in charge felt the guilty parties should be dealt with, and since the barge was well-known in the port it should have been a simple matter. But since all were natives it was up to the natives to bring about justice. The students involved

(Continued on page 34)

主權与利權

關心司法調查諸君鑒：

司法調查

是挽回我國一部份已喪主權之張本！

投保壽險於本國壽險公司

是挽回外溢利權之唯一方法！

華安合羣保壽公司敬告

總公司上海

分公司 國內國外百餘處

電話 管理處中一〇七四 營業部中一〇七三

電報掛號 「羣」字五〇二八號

American Chamber of Commerce, Tientsin, Report on Extrality

The American Chamber of Commerce at Tientsin has issued, for the benefit of the Chinese and foreign delegates to the Commission on Extraterritoriality, a report of some sixty pages which contains considerable information regarding the operation of the courts and the administration of justice in the Tientsin district. Copies of the report may be obtained without charge by addressing the American Chamber of Commerce, Tientsin.

The chief value of the pamphlet rests in its report of several cases which have attracted considerable attention in the Tientsin district, some of which have to do with military interference in the administration of justice and military interference with the legitimate operation of foreign firms. One of the cases has to do with the arrest of Mr. Eugene Chen, a Chinese editor who incurred the displeasure of the Fengtien militarists. Mr. Chen was arrested and held in jail for many weeks without trial and for a considerable period none of his friends knew of his whereabouts. The case attracted so much attention that Mr. Yang Shu-kan, at that time Minister of Justice, declared in an interview appearing in one of the newspapers that "it is to be regretted that this sort of military interference with the administration of justice in China will have a very bad effect upon those jurists who are coming to China to investigate the judicial conditions in this country."

In the line of "Conclusions and Recommendations," the report of the American Chamber at Tientsin declares among other things that:

(1) The present practice of extraterritoriality is not free from defects; that some of the objections to the system are sound and well taken, but that with its faults and failing, justice for foreigners and Chinese alike is more adequately and equitably administered under that system than under the Chinese judicial system in its present state of development.

(2) That the laws and the judicial system of China have been improved but that improvement has been more in theory than in practice and that many phases of the law have not yet been revised and modernized with the result that the old and obsolete Chinese law and precedent unsuitable to existing conditions must be availed of, and that in general the Chinese laws and judicial system have not been brought into accord with the standard of Western nations.

(3) That the methods of judicial administration of China have improved but slightly, that the majority of Chinese judges have neither the requisite knowledge of the modern Chinese law nor the experience necessary adequately and equitably to administer the same, that the military and administrative officials are in fact not subject to the judicial system and hence dominate and influence the courts preventing their free and independent action resulting in numerous miscarriages of justice.

(4) That China is in a chaotic state of strife and turmoil so that there is no full and free control of even the capital itself, that its laws and mandates are inoperative and of no effect and that there is no sign of an early improvement in such conditions.

(5) That neither in the interests of China nor of the nationals of the various Powers could extraterritoriality now be relinquished and that it would be unwise and impracticable now to determine a definite time in the future when extraterritoriality could safely be relinquished.

The treatise closes with a suggestion regarding a method for gradual relinquishment of extraterritorial rights.

The Chinese Courts and the Administration of Justice In the Interior of China

(*Continued from page 32*)

were from some of the best families in the city, and they felt the guilty should be dealt with. But the only way justice could be brought about was for some one who had wealth to bring an accusation or charge, and be ready to back the charge with his funds. From past experience the fathers feared they would loose all their wealth to no avail, and that was the last of it.

A few years ago a boat came into port with a Russian on it. Under the bed of the Russian some opium was found. He was taken into custody and tried without a witness. The only other Russian present was an interpreter. He claimed he knew nothing about the opium and it seemed there was no doubt some one had slipped it under his bunk for fear of being caught, but he had no proof. He was found guilty and put into the Modern prison for two years.

The Modern prison is indeed modern in comparison to the old type of prisons. It is kept reasonably clean, supposed to have work for the prisoners, but this is scarcely done for lack of funds. The prisoners are allowed to listen to public lectures and friends are permitted to bring in things to them. But on the other hand, it is cold in winter, has only brick beds or kongs and only the coarsest food. The natives fare quite well in it but no foreigner could stand the treatment very long.

The Russian mentioned above found the cold, hard bed and the Chinese food was too much for him. He soon became very sick and desired a foreign doctor. But to permit a foreign doctor to visit him would be loss of "face" for the native doctor who was supposed to look after the prisoners. The last account we had from him it was not thought he would live. It was not made public what became of him.

Extrality Helps Germans

The Germans here have never had an occasion to be tried in the Chinese Courts, but they themselves feel that their condition would not be so pleasant if it were not for the other foreigners who have the protection of extraterritoriality. They as rule are regarded by the natives here with much more respect than the Russians,

The real rulers here are the militarists, and all are subject to them. Not long since a well known and worthy citizen of the city was invited to the local general's yamen for a feast. From there he was escorted to Tsinan where he remained in prison until most of all his own and all the property that he could secure from friends obtained his release.

The motor road from Chefoo to Weihsien is constantly taken over for military purposes. A few months ago the larger percent of all the cars were taken to Tsinan and have not been returned.

The general in command has so often demanded large assessments from the the Chamber that many shops have been forced to close business. Just before Chinese New Year a large demand was made and it was the straw that broke the camel's back as for as these native shops are concerned. To open their shops under the present conditions means a greater loss than just letting them remain idle. Although there were bountiful harvests in this section the past season, on account of wars and unbearable taxation, the people as a whole are in the worst condition than they have been in for many years. Business is almost dead.

So we may take up the subject of Extraterritoriality as far as it functions in this section by saying: It has been a means and is a means of promoting peace

(*Continued on page 80*)

How Justice Is Administered In the Industrial City of Wusih, Kiangsu

By E. R. Dyer

ENGLISHMEN of the time of George III used to say that every American was a lawyer. This statement was probably never literally true either then or today and is probably less true in the 20th century, than it was in the 18th. At any rate no matter what his other lay compatriots know of the law, the writer wishes to hasten to disclaim any expertness in it and to state that he knows almost nothing of it and court procedure, beyond what he as an American is guaranteed by the American Constitution and a few other facts, such as, that an American judge is a judge and not a prosecuting attorney; that a man to be brought to trial must first be indicted for some particular offense against some particular law; that because of the writ of habeas corpus he cannot be detained without being brought to trial and either convicted or found not guilty of a particular offense against a particular law; that hearsay cannot be admitted as evidence in a court of law; and that the lawyers in any case before a court are officers of the court and have been made such by examination into their learning and morals and who assist the trial judge by arguing the case in the court, referring the judge to laws, statutes and precedents, authoritative records of which they must have at hand for the judge to examine.

Keeping these few but what seem to him very important facts in mind, the writer has made inquiries about the administration of the Chinese law in Wusih and will set down here without comment or with very little comment, a few things that may be of assistance to both the Chinese and foreign members of the Extraterritoriality Commission. What is reported below are things that the writer believes to be true, because he has tried to find whether or not they were true by making inquiries in several different quarters about these things and has heard the same things in all of these quarters, no one contradicting. He has made inquiries only of Chinese.

Not a Regular Law Court

It seems that the court at Wusih is not a regular law court as yet, but is still what is called a county magistrate's law court. The county magistrate is assisted by an assistant judge. The county magistrate however, has the authority and responsibility for the decisions of the court. These county magistrates are, I believe, without exception the clients (in the Roman sense of the word) of one of the great military chiefs who rule China. This part of Kiangsu Province has changed masters in the civil wars of the last fourteen months and each new master has sent a new magistrate here. It seems likely that this would hold good of all other counties in China. I have inquired as to whether any of these magistrates have been learned in the law or not and cannot find that any of them have been. The present incumbent is said to have been made worthy and well qualified for his position as magistrate by having been a newspaper man.

There are more than twenty lawyers resident here, who are said to have passed some sort of examinations qualifying them to practice law.

I have made inquiries of several intelligent and well informed men as to what the procedure was in trying a case and what part the lawyers had in it. A digest of the replies I have received yields the following. The lawyers practicing here differ greatly among themselves in prestige and influence by reason of their connections with powerful people or for other reasons. A man involved in a criminal or civil case may engage one of these lawyers according as he is willing and able to pay; the more influential being the more expensive. The lawyer demands from his client in advance of doing any work as much as he thinks his client is willing to pay at the time. The writer has known of cases where the clients, who were peasants, seemed to be advancing the lawyer for his fee, almost as much as the value of the property under dispute. After the lawyer has received his fee he calls on the magistrate privately and talks the case over with him. As far as I can find it is not the regular practice for the attorneys of the plaintiff and defendant to argue cases in open court and thus assist the judge to find out the law governing the case and apply it to the case. When I asked why this was not done the reply I received was to the effect that the losing attorney would "lose too much face" if cases were handled in that fashion.

This one court tries all of the cases for the whole county which has a population of several hundred thousand people at the least and probably over a million, among whom there is a great deal of litigation. Sitting as a judge is only one of several functions performed by the county magistrate.

Soldiers Kill Mill Manager

Having sketched thus briefly what is reported to be the way in which the local court is constituted and functions, it seems proper to illustrate by reporting a trial which took place in the jurisdiction of this court. The trial that I am going to report is the one that attracted the most attention locally of all the trials taking place here in the past year. I shall report the trial as it is reported in Wusih. I have heard the story of this case from several different sources and as the story is always the same I believe that it is substantially true even in detail.

A short time after the battle which was fought here on January 25 and 26, 1925 in which the Mukden forces were completely victorious over the forces of General Chi Hsih-yuen, a cotton mill manager, together with his wife and some of his family, was proceeding in a motor launch from Wusih City to a town in the country. When the launch had arrived at a point about ten miles from the city, it was held up by two men in soldiers uniforms, whether of the Mukden army or of the soldiers of General Chi, who were still scattered about the country, was never ascertained. These two men in soldiers' uniforms fired point blank with rifles from the canal bank on the mill manager and killed him. It should be noted that men in soldiers' uniforms and with army rifles have murdered other people in towns about the county since that time. According to the testimony of the murdered man's widow, the assassins, after getting aboard the launch and making certain that the mill manager was dead, ran away taking very little with them in the way of plunder.

A short time after this the assistant manager of the mill was arrested and accused with having procured the assassination of his chief. Some one,

Mr. de Rossi, Italian Delegate to International Extraterritoriality Commission

perhaps the widow, seems to have testified that the murdered man had been heard to say that at the time when General Chi's army began to sack the suburbs of Wusih, he and the assistant manager had taken the sum of $20,000 belonging to the mill and had hidden it under a large jar and that after the pillaging was over, he had gone to find it and found that it had been taken away and that as only he and the assistant manager had known where it was the assistant manager must have stolen it.

Although both the murdered man and the accused were civilians, the Mukden military who were then in power here, for some reason took direct charge of the case and prosecuted and tried it, though this latter is perhaps of little importance, because the civil officials of this province have, at other times in the past year, passed and executed death sentences at the order of the military.

The evidence against the accused was as I have stated above. It was also said that the accused had taken part in the plundering when General Chi's soldiers were cleaning up and that several private rickshaws which had been plundered, had been found in the mill. I do not know whether this finding of stolen rickshaws if proven, would be admitted as evidence of having committed murder, in the courts of the powers having delegates at the present conference.

The possibility that soldiers searching for plunder had found the money and carried it off or that the murdered man himself had taken it, does not seem to have been discussed in court, or to have occurred to anyone. The court decided that a confession must be obtained from the accused. A confession is said to have been extorted as follows and this appears in every version of the accounts of the trial that I have heard.

Method of Extorting Confession

Large bundles of sticks of ordinary Chinese incense were made up and the ends of the bundles ignited. The burning ends were then placed in the armpits of the accused and the arms forced down on the fire and held there. After this method was tried for a time without extorting a confession, the prisoner is said to have been racked in the following fashion. He was suspended by his wrists to a frame and then tension was applied to his body by detectives or yamen runners seizing the feet and legs of the accused and pulling their own weight from the ground. In this manner the more men hanging on to the feet and legs at one time the greater would be the tension. It is said to stretch and pull the muscles and tendons and even to pull the bones out of their sockets. These two methods are said to have been applied successively to the prisoner for several nights. Finally he was carried, in the middle of the night, to a room, which had been arranged with the tablet of the murdered man. The accused is said to have been so torn and disjointed by the racking that he was unable to walk or even to stand. The story is that he was placed in the middle of the floor before the murdered man's tablet and that he there confessed that he had procured the murder. After this, a sentence of death was pronounced and carried out on him.

As far as I can discover, it is not the custom to inflict torture in open court, but it is commonly reported that chief detectives have access to the prisoners who are awaiting trial and that they remove them to their own homes where, with the aid of their assistants, they inflict torture for the purpose of extorting confessions. The writer knows certainly of a very recent case, where local detectives, in order to extort a confession, mutilated in an unmentionable but excruciatingly painful manner, a man who was accused of some crime against property. As far as I know a man who has been tortured has no redress.

A sequel to the case of the murdered mill manager has just come to the notice of the writer. During the last week of the January just past, a news item was printed in the local press to the effect that a woman who had been released from the yamen jail that day had complained, because the good clothes that had been taken from her at the time of her arrest, early last year, had been stolen and not returned by the jailers. The item went on to add that the woman was the wife of a man, who was suspected of complicity in the mill manager's murder and that since the husband had run away and escaped arrest, the wife had been taken to the jail and held as a hostage since early last year and had now been released. It is significant that no comment whatever was made in regard to keeping a person, admittedly innocent, in jail for almost a year.

In closing, I think that perhaps I ought to say that I do not know whether the cases I have stated above are entirely typical of the courts of Wusih or of China. It would be necessary to make a study of a great many cases in order to be able to state positively which ones are typical and which ones are not. Personally, I believe it to be true that torture is frequently practiced in order to obtain confessions to be used as evidence. In addition to this it seems evident that nothing like the writ of habeas corpus has gone into operation and that a prisoner can be detained indefinitely without being charged or when there is no charge as in the case of people who are detained in hopes that a relative who is wanted, will come and give himself up.

The Machinery of Justice Works Apparently Without Friction in Huchow, Chekiang Province

By W. A. Estes

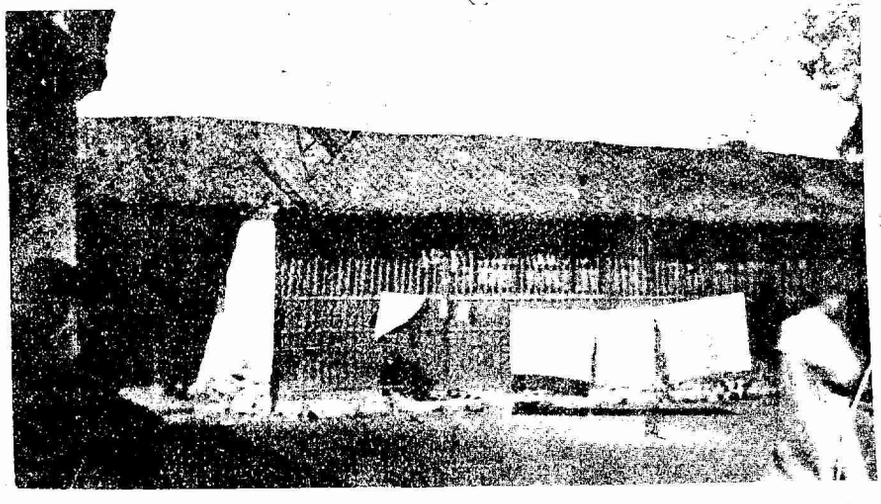
THE District Court of Huchow occupies a portion of the huge conglomerated mass of buildings known as the Wuhsing Yamen, one of the three official yamens under the emperors and the only one now devoted to governmental purposes. To this place, accompanied by a Chinese friend, I made my way one afternoon to learn something of the forms and practise of the administration of justice in this city.

Though our coming had been unannounced and we were doubtful whether we would be received, since we had been informed that the public was excluded from the sessions of the court, we were at once admitted into an office, where two clerks were busily copying documents. Almost immediately a gentleman entered and introduced himself as the Chief Justice, Mr. Shen Wen Po. Mr. Shen is a Shaohsing man of probably fifty-five years of age, rather stout and of very pleasing address. He was entirely cordial and willing to give all the information we desired. After a somewhat lengthy conversation in regard to the working of the courts, the subject of the city prison came up and we expressed a desire to see it. Mr. Shen, while stating that that institution was outside of his department, assured us that he could arrange for us to have an inside view of it. He sent to ask the warden about the matter and presently the warden himself appeared. The warden, Mr. Hu, is also a Shaohsing man of middle age, and is very pleasant and affable. After some further conversation we all arose and passed out to one of the court rooms where court was then in session.

The court room was merely an ordinary room of a very ordinary Chinese building. The floor was hard bare earth; the walls were of rough boards; the beams of the roof were black with age and showed the dry rot of decay. Through the ancient matting which partially supported the tiles of the low roof could be seen cracks in various places through to the outside. The only attempt at decoration was to be seen on the wall at the back, which had been prepared. The dimensions of the room were about thirty feet in length by twenty feet in depth. One side, which consisted entirely of doors in the ordinary Chinese style, opened upon the courtyard. Opposite the doors was the judge's tribunal, consisting of a rough wooden platform, a foot high, upon which was a desk made of cheap lumber and painted a light red. In front of the desk was a short railing, and back of the desk were several chairs, one occupied at the time by the presiding justice and one by a clerk. The other furniture in the room consisted of two square stands and eight small settees, each settee to accommodate two persons. These seats were placed four along each wall at the sides, leaving an open space in the center of the room. When we entered there were, besides the judge and the clerk, only five persons present. One was a man standing before the bar and giving testimony. On each side of this man was a court attendant, one of whom occasionally interpreted some obscure remark of the witness. In front of the bar and somewhat to one side was a man sitting at one of the small stands, who did nothing while we were present but stare at the manuscript on the stand before him. He was said to be a lawyer. Another man, who had already given testimony was seated near the wall at the right.

Shrewd Questions Confuses Prisoner

The case under consideration was one of robbery. A boat, while on its way to a near-by town, had been held up by seven men and pillaged. Subsequently three men who were thought to have shared in the robbery were arrested by local constables. Several witnesses were called and carefully questioned by the judge. Finally one of the culprits was brought in, a young, stolid looking countryman. The judge put some very shrewd questions to him and elicited several glaring discrepancies in his story. We did not hear the conclusion of this case as time did not permit.



Above: Prison Work Shop..Door to Prison at Left.

Right: The Judge's Tribunal at the District Court of Huchow.

Left: Entrance to Wuhsing Yamen

Below: Entrance to the Criminal Court

From this court room we went to another, similar to this in nearly every respect. Here a case concerning property was being tried, and a priest was giving testimony. After pausing a few moments to observe this scene we went on through many turns and alleyways to the prison entrance, a low forbidding archway of stone, closed by a well barred door.

The Prison and the Prisoners

With the exception of one building which is used as a workshop, the prison is enclosed by a wall perhaps twenty feet in height. It covers an extent of approximatly three-quarters of an acre. Within the enclosure is a huddled group of buildings with a narrow passage between them, and a small yard of about twenty feet by ten. The prison at present contains one hundred and forty-five prisoners. Some were locked in heavily barred rooms. Others were working at various occupations. We were told that with some exceptions the prisoners in turn were allowed to take some exercise in the yard, and also in turn to work at any one of the jobs they might prefer. Their earnings were half their own and half the prison's. The greater number then at work were spinning cotton. Some were working as tailors, others as blacksmiths, and still others were making various articles from bamboo. Most of the prisoners were a sallow-faced, shifty looking lot. In one room there were twelve men, said to be robbers who had been guilty of taking life. They certainly looked the part. Hard, cruel, pitiless, and totally careless of consequences was the story told by their facial appearance. They were in fact the *beau ideal* of ferocious bandits. Their legs were shackled together and they were kept in close confinement.

Like all the other buildings of the yamen area the buildings of the prison are old and delapidated. The warden spoke regretfully of their ruinous condition and expressed the hope of sometime having a new and modern jail. Under the conditions imposed by the character of the buildings and the limited space for exercise and work it would seem that all that is possible is being done for the prisoners' welfare. Their lot is no happy one but it could be worse. Indeed from what I had heard of Chinese prisons I had anticipated finding conditions far less endurable than appeared.

The following gives a general idea of how the administration of justice is effected in Huchow:

Organization of Judicial System

The Wuhsing Hsien (District of Huchow) extends from the Great Lake south for some twenty miles, and from east to west measures about thirty miles. Within this district besides the city of Huchow with its 150,000 population there is the large unwalled city of Nanzing besides several large and important towns, such as Songling, Wutsun, and Wuping, and numerous large villages. As already indicated, the court for this district is established in Huchow. Connected with the court are four justices; two officials whose duty it is to search out facts in connection with cases brought to trial; and many minor officers, and clerks. The work of the court is divided between the justices, one presiding over criminal cases, one over civil suits, and so on. The chief justice, Mr. Shen, directs the operation of the courts and acts as adviser for all departments. The court sits every day in the year except Sundays and for a few days at the Chinese New Year. About two thousand cases are passed upon annually. The justices, as seen at their work, appeared to be earnest and conscientious. In the handling of witnesses and in the general procedure of the courts—as far as could be observed in the time allowed—the justices would appear to compare favorably with similar justices anywhere. In their official robes and hats and with their genuinely judicial attitute they presented a truly impressive appearance. It would seem that a foreigner need not fear a miscarriage of justice if brought before such judges; but if guilty of misdemeanor and sentenced to imprisonment, then indeed he would be in a pitiful state. There can be no comparison between an ordinary American prison and the Chinese prison just described. While the former has certain conveniences and comforts which to some extent ameliorate the lot of the unfortunate wretch condemned to waste his life away therein, in the latter there are no conveniences, no comforts, and no ameliorations. The prisoner must chew his bitter cud with what of patience he can muster, with no hope except perhaps that of being able to endure his term, and some time once more to escape into the open air.

(*Continued on page 54*)

The Administration of Justice in Hunan Province

By a Foreign Resident of the Province

IN Hunan, as elsewhere in China, interest has been aroused in the judicial system of the province and in the administration of justice, by the convening of the Extraterritoriality Conference in Peking. The prospect of a visit by members of the Conference has been the cause of an order issued by the Governor, Chao Heng-ti, to the effect that heads of courts shall be ready to receive the members of the Commission and to give them information and other assistance as required. No more has been done. There has been no hasty attempt to "put the judicial house in order" or to conceal defects which might exist. As a matter of fact there is little that can be done. From a standpoint of organization the Hunan judicial system leaves little to be desired, unless, indeed, it is desired that the court system shall in every detail be the replica of Western systems. Fortunately, this is not the case. It is with the administration of justice that the Conference is chiefly concerned and it is in the administration of justice that most of the provinces are found failing.

It is difficult to say to just what extent the courts in Hunan fail in administration. Certainly no sweeping charges of inefficiency can be made, unless strict adherance to Western methods is demanded and the Chinese mentality is ignored. Of course, there are defects and instances of the miscarriage of justice, but what country is free from such complaints? When looked at from the Chinese viewpoint, the grievances do not outnumber those in foreign lands and complaints are not more frequent than in the nations of the West. It should be borne in mind by those examining the workings of the courts in China that justice is often tempered with compromise. The fact that a judge aften hearing a case, will give the litigants a certain period of time in which to settle their case out of court, failing which, he renders his decision, is looked on by many as a grave defect. But who can say that compromise is not more often a better way of settling differences than by judicial decrees? Have not the Chinese advanced a step beyond their Western contemporaries when they tacitly admit that there is no such thing as "absolute justice"; that judges are human and likely to ere in their decisions; and that an amicible compromise is more to be desired than a "just" decree?

Hunan Constitution Provides Ample Protection

The constitution of Hunan gives ample protection to the civil and political rights of the people. True, political instability, causing martial law to be in force in the greater part of the provinces, causes these protections to be merely fictitious in many cases. The best of constitutions is of little value where the government is unable or unwilling to abide by and enforce its provisions. But the very fact that there is a constitution and that this constitution provides for the protection of the people is an evidence that efforts have been taken in the right direction. What is now needed is political stability. That will take time, and it is with this time element that the Conference is chiefly concerned. Has the time yet arrived when China, when Hunan can be trusted to administer justice? It is not a case of desire; it is not a case of organization; it is a case of ability. There is much reason for those who argue that responsibilities bring development. One does not wait for a child to prove himself absolutely trustworthy before placing trust in him. It is through a realization of the necessity of performing obligations with which he is trusted that he becomes trustworthy. Failures there must surely be, but it is through failures that one often learns best how to succeed. Such seems to be the case with China, with Hunan. Capability must be developed and development is best attained through the performance of obligations. Naturally, this method of experimentation does not appeal to the practical business man, who expects justice when he carries his case to the courts. And the business man is quite human, if, perhaps, not altruistic, in wishing to protect himself against the schemes of visionaries.

The constitution of Hunan provides for the organization of the judiciary. The lowest courts are the Primary Court and the Primary Procurate. In these courts civil cases involving small amounts and criminal cases of minor importance are tried. One of these lower courts is supposed to be provided in every district in the province, but owing to the lack of funds, they are lacking in many of the less important communities. In such cases the district magistrate performs the duties which would ordinarily be handled by the courts.

Local Courts Hear Appeals

Above the primary courts are the local courts, divided into the Local Court and the Local Procurate. These courts try cases which are more important than those entering the primary courts and also hear appeals from the latter. Local Courts are to be found in the large cities of the province.

The supreme judicial authority in the province is the High Court, which like the other courts has connected with it a procurate court. This court tries cases of major importance and hears appeals from the lower courts. The head court is in Changsha and there are two branches, one in west and one in south Hunan. The constitution provides for appeals from the High court to the Supreme Court in Peking, but under the present government of China such a provision is purely nominal.

Judges in the High Court are elected by the Provincial Assembly. Other judges are appointed. District magistrates stand competitive examinations and are appointed by the Governor. Such is the organization of the courts of Hunan. Civil and criminal cases are tried by the same courts. A Commissioner of Judicial Affairs is at the head of the whole system and is one of the members of the Provincial Cabinet, or Council.

The administration of justice in Hunan may be classified under three headings: criminal, civil and foreign. It is with the two latter that we are chiefly concerned. Under the present system of martial law, most of the criminal cases of importance are handled by the military authorities. The administration of justice by these authorities leaves much to be desired. Either punishments are meted out rather harshly and without much regard for trial, or prisoners are allowed to languish in prison for long perids before being sentenced. This state of affairs is due to political instability. Where cases are tried before civil courts justice usually triumphs.

Civil cases involving only Chinese interests are tried in the primary, local or high courts. Cases are tried before a single judge, appointed by the head

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judge in the court in which the case happens to be brought. As previously stated, these judges often do not render their decisions until after the parties have shown their inability to reach a compromise.

A custom exists among the merchants of carrying disputes which raise themselves to the Chamber of Commerce for settlement. These cases are usually concerned with the payment of drafts, settlement of accounts, etc. The Chamber of Commerce acts in the capacity of an arbitration body, and the merchants, as a rule, follow its advice. The province does not have any well defined bankruptcy laws. The courts often close shops for nonpayment of debts and seize property for distribution among creditors. Voluntary bankruptcy is very rare.

Magistrates Reluctant To Render Decisions

Cases involving foreign interests, where the foreigner is the plaintiff, are tried before the district magistrates. Consular courts and higher courts of the nationals concerned try cases where the foreigner is the defendent. The chief complaint to be made against the magistrates courts is their disinclination to render decisions. The courts are, in one respect, at least, like the "mills of the Gods," they grind slowly. Whether or not the foreigners would suffer from having their cases tried as the Chinese, in the regularly instituted courts is a question. It is certain that they would not have *much* to lose, and it is altogether possible that they might gain thereby. The special processes through which foreign cases are tried at present are not very efficacious and the regularly constituted courts could handle them just as satisfactorily as the magistrates. Putting these courts on their mettle might bring forth results that would be well worth the change.

Instability of Government Is Greatest Handicap to Justice

Summiug up the situation, it would seem that slowness and compromise are the principal charges to be brought against the courts of Hunan. Compromising, it is felt, is not as serious a charge as it is made out to be. Once the foreigners cease trying to force their own ideas of justice on the Chinese, and adapt themselves to the Chinese way of doing things, they will find that the much heralded inefficiency of the Chinese courts and legal system is more a matter of propaganda than fact. The ease with which Chinese judges may be bribed is often cited as evidence against the courts. While cases of bribery do exist, the vast majority of the judges of Hunan are men of integrity as well as of ability. Where corrupt judges are found to be holding positions the cause can be laid at the feet of political disorganization. With a strong government administering the affairs of the province, one can feel sure that the courts would have trustworthy officials. Instability of government in Hunan, therefore, is the primary deterrent to the relinquishment of extraterritorial rights by the foreign powers in this section of China.

If the Chinese would fully realize this and work for the eradication of political disorganization there would be less hesitation on the part of the foreigners over the relinquishment of extraterritorial rights.

The County Courts and the Administration of Justice in Fukien Province

By Eloc

THE present County Courts of the Republic that have come under the observation of the writer are organized along identical lines with the courts that existed under the monarchy only there has been retrogression in their administration due to the disorganized state of affairs that have existed in recent years. There has been constant change in the local government. This has militated against well established courts of justice.

The County Court centers about the magistrate. He together with his assistants constitute the court. A constabulary is maintained by the magistrate but they do not bestir themselves to police the county and bring law offenders before the court. They remain at the yamen until sent for and are provided with liberal travelling expenses. Thieving, burning of houses, murder and every conceivable crime may take place in county and receive no attention from the yamen police unless those who suffer appear at the yamen and register formal complaints against the law breakers. A large share of the duty in maintaining justice is left to the citizens. They are supposed to defend themselves with their own resources as much as possible. The citizen must be his own detective and it is surprising how clever many of them are in locating the thief or transgressor. All initiative must come therefore from the citizen.

The Yamen's Traveling Expenses

If a man has a complaint against another, if he has suffered because of another's infringement of the laws of the land, he gets the aid of a lawyer and formulates charges against the offender. These charges are filed in the Yamen upon the payment of a stipulated fee. When the magistrate has passed upon them he assigns the case to one of his deputies. A notice is posted in the yamen to that effect. The accuser's lawyer must then interview the Deputy and provide "Assistance Money" which is supposed to be for travelling expenses for the Deputy and his body guard in the call they are about to make upon the accused. As there is always a swarm of folks hanging around the yamen looking for jobs some of them are sure to inform the accused of what is impending. This prepares him for the coming visit. He may forstall it by going to the yamen and thru his lawyer directly bribe the deputy by a gift of money. However the usual proceedure is for the deputy and his retinue to make a call upon the accused. Then it is necessary for the accused to in turn provide travelling expenses for the deputy to get him to go back to the yamen. This is the first cycle of the case. Seldom does the deputy arrest the accused and bring him to the yamen. Nothing further is done than this form of money fine which of course does not afford complete satisfaction to the accuser. It is true, however, that the accused has to pay out more than the accuser does. If the accuser is not satisfied with the results he must draw up a restatement of the case, pay another fee and register it in the yamen. This begins the second cycle of the case and follows the proceedure of the first. This may go on until the accuser gets tired and quits or the accused may find these visits of the deputy such a drain upon his purse that he decides to arbitrate the case. This is done by middle men and without the offices of the yamen. The yamen is quite content to allow such a settlement. In fact, the moment the acccuser ceases to file accusations after each visit of the deputy no more attention is given to the case upon the part of the yamen.

If the accuser is of some prominence and can bring enough pressure to bear upon the yamen the case is brought to court. There are also cases where the accuser himself arrests the offender and presents him to the yamen. There are cases where the villagers seize bandits and send them to the yamen. There are also cases of offenses more directly against the government such as resistance of the tax collectors or other government employees. The magistrate or a deputy assigned by the magistrate conduets the examination of the witnesses and renders judgment in the case. Favorable decision can often be secured by the use of money. Often the accused can be bailed out by his friends. In that case his friends stand security for his future behavior and the case rests there. The writer has seen cases of brigand chiefs securing release thru the offices of prominent friends. Their past is thus overlooked.

The Case of the Bandit

If the accused should take the method of directly bribing the magistrate the trial then turns out to be mere form. A case has just come under my observation. The accused was a prominent bandit. He captured a farmer and held him for ransom. The relatives of the farmer thru a middle man secured the farmer's release upon the payment of several hundred dollars to the captor. Complaints were registered in the yamen. After about a year the bandit fell into the hands of the soldiers and was turned over to the yamen. This bandit had accumulated some considerable means as he had carried on his trade for some months so had enough to divide with the magistrate. I heard the report of the trial from the lips of the farmer who was captured by the bandit and it was merely a few form questions with a suggestion here and there by the magistrate to the farmer as to how it was entirely possible that he could not identify his captor. The bandit was cleared of his crime.

There is a check, however, that is sometimes used as in the case cited above. Various organizations such as the Red Cross, the Commercial Guild, the Students' Organization and other like organizations may petition the magistrate to reconsider the case declaring that they know the offender to be guilty. In such a case the magistrate feels free to keep the bribe and reopen the case and judge it on this "fresh evidence".

The county, besides the Magistrate's Yamen, has a number of police stations at various centers, usually at a few of the largest market centers. These are in charge of a chief of police appointed by the magistrate. To be more accurate the office is brought from the magistrate. These deputies have armed retainers. Their station is a small edition of the County Yamen. They usually act on specific charges filed with them as in the Yamen and go upon payment of travelling fee. They likewise require a larger fee from the accused. I have observed cases in which the accuser may use two or more police stations upon one case thus having the accused visited in turn by various squads of police. There are not many families that can stand that sort of a drain very long. They frequently find it to their advantage to employ the offices of middlemen and arbitrate the case. This method leaves room for mal-administration. Sometimes unprincipled men who want to take revenge upon a party will do it thru setting the police upon him and eventually reduce the party to beggary.

This as stated before is the old type of administration that existed before the days of the Republic only

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it is at present far more corrupt due to the absence of restraint that formerly obtained under a more centralized government.

There has been one attempt to establish a so-called "Model Court," that has come under my observation. It was widely advertised that justice would be administered with impartiality and strictly according to the laws of the land. The announcements stirred hopes within the breasts of many who had experiences with the other courts. However, the model court proved a failure for the simple reason that a "model judge" could not be found to administer law. The judges all seemed to be trained under the old system for they invariably ran right off into the old deep ruts of long established custom in these matters. Sufferers of years' standing flocked to the court only to be disappointed in finding that the wheels of justice had to be oiled as formerly and that the one who made the most flattering gift to the judge got the decision.

These County Courts figure large in the obtaining of justice in cases where foreign interests are involved. The Consul at the Provincial Capital deals with the government thru the Foreign Board in cases of complaints on the part of the citizens who are subjects of the country that he represents. The Provincial authorities then deal directly with the County Magistrates. The results will depend largely upon the magistrate. The amount of pressure the Consul can bring depends upon just how far the Government he represents is willing to go in enforcing treaty rights.

Several cases has come under the writer's observation where the interests of an American Mission were involved. There is one case of seven years' standing. The American Mission had property in a small village that was under the displeasure of a larger village. The men of the larger village taking advantage of local conditions when fighting was taking place between the Northern and Southern forces followed in the wake of the Northern soldiers and burned a number of houses in the smaller village.

They also plundered the church property and set fire to it. Besides the damage and loss to the Mission property the preacher, school teacher and the Bible-woman under the employment of the Mission lost all of their personal property. For seven years the Consul did everything possible to get an adjustment of this case but not one cent of damage has been paid.

There is another case of the same Mission of a somewhat different nature that is of three years' standing without settlement. Two employees of the Yamen became incensed at a group of church members in a certain village because they were thwarted in collecting illegal taxes. They succeeded in sending a group of Northern soldiers together with the Yamen constabulary against the group of villagers. They did not stop with plundering the villagers but thoroughly plundered the Mission property there consisting of a church, two parsonages and a school building. The employees of the Mission, all of whom were Chinese, were forced to get out of the buildings and lost all they possessed that was of value to the plunderers. The magistrate, who was responsible at that time, later had to flee for his life because of the anger of the citizens against him. His two deputies directly connected with the affair have never been arrested. Time after time the Consul has been informed by the Provincial Authorities that the Magistrate has been strictly ordered to settle up the affair yet the magistrate has succeeded in avoiding such a settlement. It undoubtedly is costing those two former deputies a lot to avoid a settlement and in this there is a deterring influence upon others who might be tempted to plunder Mission property.

One cannot but wonder just what could be hoped for from these County Courts if no pressure could be brought from the Consul upon the authorities by the lever of treaty rights. As it is action can be secured only after the most strenuous efforts.

Extraterritoriality and the Foreign Business Man

By B. Y. Lee

MAINLY due to the existence of extraterritoriality, the foreign residents in China, particularly those belonging to the merchant class, have apparently been receiving personal benefits on account of special privileges but at the same time they may be surprised in the realization they that have been innocently retarding the development of China's natural resources and industries because of the lack of friendly co-operation between them and the Chinese. Extraterritoriality has created many disadvantages for the foreign business men, the chief one of which is the existence of constant fear and suspicion in the minds of the Chinese toward them, because they are helpless and powerless in the court where the foreign lawyers are employed, foreign language is spoken, and foreign judges preside and dictate the terms of final decision whenever any disputes are involved in business transactions, which has separated the merchants of the two peoples. Since a majority of the foreign residents in China are business men, they should seriously think of the advantages and disadvantags of the abolition of extraterritoriality in the terms of business opportunity offered to them, rather than in terms of their national pride and superiority or of their own conventional attitude.

The foreigners may ask themselves what is left for them after that "scrap of paper" is torn up. The answer will be more and better future business opportunities to counterbalance the present day treaties. In order to secure this, the abolition of extraterritoriality is the prime requisite which will either directly or indirectly secure the good will of the Chinese people. As long as extraterritoriality is in existence the foreign business man, especially those who have lived in China for some years, are apt, psychologically speaking, to act proudly and to speak roughtly as well as to look down upon the Chinese, forgetting that their mission in China is business. Of course not all of them are like this kind, but it is true for a majority. In our business world we have learned the value of good will as a business asset, which may sometimes be worth millions to a firm.

Every one knows what a potential purchaser China is and what a future prospect she has offered to her friendly neighbors. Once the good will and confidence of the Chinese people is firmly secured, the foreign business men will surely see a new era of business opportunity awaiting for them at their threshold.

Extrality Hampers Chinese Industries

Extraterritoriality has blocked the rapid development of Sino-industrial as well as the foreign managed industrial enterprises during the past twenty years of China's industrial development in spite of the fact that she is a most attractive field for inviting foreign investment. Among the commercial enterprises, the percentage of the sino-companies are comparatively small. If they are organized by the foreigners, the Chinese are either "silent partners" or else the number is exceedingly small; and on the other hand, if they are organized by the Chinese, the foreigners are employed either for "pushing" the trade or merely employed for some sort of protection. In both cases the real spirit of cooperation and good will are not enthusiastically shown. A great many factories, such as cotton mills, iron works, factorys, oil mills, leather tanneries and the like are in the absolute control of the Japanese, where Chinese capital and mutual cooperation are not eagerly sought after. It is a well-known fact that many wealthy Chinese are inclined to buy stocks and bonds belonging to the foreign managed enterprises as a best means of safe investment. This has plainly proved they do appreciate and trust the experience and leadership of the foreigners. The are willing and ready to invest capital in foreign firms provided they are sure to receive complete safety and good returns. Extraterritoriality is one of the factors that has barred them from large investments and has instilled some sort of "passive resistence" in their minds, which some foreigners ridiculously call "anti-foreign".

China Needs Foreign Co-operation

It is a fact that China needs foreign capital, experience, both intellectual and technical and leadership to develop her natural resources and industries. Without them, the material prosperity of China certainly will be delayed. The question is how can we find a middle ground on which both peoples would be willing to accept a program of cooperation The foreigners doing business in China, by all means, should adapt themselves to the changing ideas and conditions of the people who, due to the encroachment of the Western intellectual elements, have begun to appreciate what is materially beneficial and hate what is unjust in terms of international relations. The conflicts in ideas, ideals, and in the conception of international justice mean widening the gap of closer cooperation, which in turn will make rapid material accomplishment almost impossible. From the economic point of view after the abolition of the extraterritoriality, the foreign business men will have all to gain and nothing to lose; for what they will lose will be that the both peoples will be equal in the court and what they will gain will be a growth of business.

That China is rich in her natural resources is well-known. Many volumes have been written regarding the splendid opportunities being offered to foreign capitalists. China alone at present has not sufficient capital, experience and leadership to develop her resources successfully. She is blamed as a backward nation internally and externally. She has been an agricultural country and has devoted all her energies to agriculture, but has not fully realized the importance of a materialist civilization until lately. Since the foreigners have all the qualifications to assist China to keep pace with the modern nations, they should think out some ways and means to accomplish their aim and win the confidence from the people by removing the fear and suspicion from their minds and give up the special privileges.

It seems very likely that after the abolition of extraterritoriality foreigners will be given more extensive privileges to own land, open factories and to travel more extensively in the interior towns. Therefore the future prospects for them are unusually great. There is an enormous amount of fertile, but undeveloped and uncultivated land in China suitable for profitable cultivation when modern irrigation and capital are efficiently applied. Even in Kiangsu Province there are millions of mow of lowland awaiting for further development. Some can be purchased for as low as from five to ten dollars per mow and if it is properly cultivated, the return will be manifold. The lack of experience, capital, and perhaps leadership has prevented the Chinese from undertaking this project. A few hours steamship ride will take one to an open country where the land is fertile enough for either rice or cotton and can be bought at about twenty dollars per mow. The land within the settlement of any treaty port is too dear either for residence or for investment and very likely the foreign residents may soon have to seek for some urban property cheaper to live in as soon as modern conveniences are provided.

China needs better agricultural methods as a flourishing agricultural nation means a flourishing commercial nation. She is too backward along this line as the majority of her farming class are too conservative to apply modern science to cultivation. Foreign assistence is badly needed in this work. If some sort of special privileges along this line will be granted to foreigners, we may soon see a new epoch in agricultural development. Take the item of cotton for example. China is known as the third cotton growing country, still she is importing more than one million piculs of cotton annually at the value of more than $ 75,000,000. On the average she used a little over 30,000,000 mow or about 5,000,000 acres for cotton cultivation. According to a careful estimate there are at least from 20 to 25 milllon acres available for cotton cultivation and if properly cultivated, the amount will nearly nearly equal that of America. Even around Nan Tung districts there are more than 25,000,000 mow which would be suitable for this purpose if sufficient capital be scientificially applied. If foreign brains can be utilized to develop this line of work, not to mention that of wheat and tobacco, the future prosperity will be immeasurable for both.

Advantage of Interior Factory Sites

At present nearly all the modern factories are located in the settlements of the treaty ports where the price of land is unusually high—perhaps anywhere from $ 5,000 to $ 10,000 per mow. Many kinds of factories, such as cotton, cement, iron works, silk and the like have far more chances to succeed in the interior towns where not only the land is cheaper—perhaps as low as one hundredth as that of the treaty ports, the wages are at least 10% less and a great saving is realized in shipping raw material to, and transporting the finished goods from, the factory sites. A cotton mill located in Nan Tungchow district can buy cotton at two taels per picul cheaper than elsewhere, or one that is located in Shensi or Szechuen provinces may realize a million dollars of profit or loss a year in comparison with one of the same size in Shanghai. Most Chinese-owned factories in inland towns are small in size and limited in capital. Even among the silk factories in Hangchow, there are only a few modern ones in the real sense. If experienced foreigners with ample supply of capital should start factories there, a splendid future prospect is assured.

In spite of frequent civil wars and other unfavorable factors during the past two decades, the industrial and commercial enterprises of both Chinese and foreigners have achieved a remarkable success. Generally speaking, the foreign-owned enterprises have a better and efficient management. An ample supply of initial capital has been carefully worked out; men of specialized experience and well-informed in regard to the world market are employed; the system of modern accounting and of keeping sinking and reserve funds is put in practise. These methods are already exemplified in the cotton mills managed by the Japanese, tobacco factories by the British, and leather, cement, glass factories, and the like, by other nationalities. The Chinsse-owned factories have not fully put all these principles into practise, which has put them in a disadvantageous position. The labor cost per unit is considerably lower and the labor is more efficiently managed in the foreign-owned enterprises. This proves that the Chinese labor is not inefficient if he is under an efficient management.

Getting rid of extraterritoriality will mean to give foreigners more chances to do extensive traveling and frequent close contact with the various classes of the people in the interior towns. Under this condition they may be forced to learn to speak the language of the country, which is a best means to make them get along with others Most foreigners, especially the Europeans, are not willing even to show any inclination to learn the Chinese language which has made the whole situation embarrassing. Any force that can stimulate the foreigners' minds to get interested in the language being spoken by four hundred million people will be enormously beneficial to all concerned. On account of the ignorance of the language the foreign merchants have introduced the compradore system. To do business and to handle employees indirectly through the compradores has resulted in many evils including the popular term "squeeze", which most foreigners have now acknowledged to exist. This is one of the reasons why labor strikes has always proved more disasterous in the foreign-managed enterprises than in the Chinese owned.

The Westerner may envy the Japanese having attained a remarkable success in their business undertakings in China during the past years. Their success has been due to many reasons. Wherever they go, they are willing to learn the language, and to study the peculiar characteristics of the people, and then they try meet the conditions demanded. In many Sino-Japanese enterprises numerous Japanese can speak the native dialects as distinctively as any of the natives. Most American missionaries have devoted a greater part of their time at their first arrival to study how to read and even how to write Chinese and thus they can get along well with the native followers. Imagine how well the Chinese merchants would do business or manage factories in New York or in London if they were not able to speak a word in English.

Chinese Language Advocated In Business

At present, in dealing with foreigners, all the contracts, legal documents and the like are written in English as the orginals while the Chinese is used for reference only. In the eyes of many old Chinese business men, this system is entirely unsatisfactory. Many times they are put in to an embarrassing position or even may be deceived by a mere "crook" translator or interpreter. If a word or a phrase is mistranslated or misinterpretered involving something of great inportance, the final decision will be decided by the foreign lawyers and judges. After the abolition of the extraterritoriality, this practise may be met half way and many Chinese, not knowing English, may feel freer and easier to deal with the Westerners without any embarrassment or hestitation in the eyes of law or in the different interpretations of the foreign language now being used. Then the lost good will and confidence may be regained to a considerable extent.

Since the sole object of all the foreigners in China, excepting a small percentage of missionaries, is purely economic, they want to get more business, and naturally they wish China to be peaceful and the Chinese to be fully satisfied with their treatment. The abolition of extraterritoriality is one of the best means to that end. Formerly, the existence of extraterritoriality was of political significance when the number of foreigners were few, the amount of business done was limited and besides China has been purely an agricultural country with her millions who have had no ambition to develop modern industries and commerce; now the conditions are of an entirely different aspect whereas the foreign merchants begin to feel that they can not get along very well without the good will and cooperation from the Chinese, and the Chinese too begin to know the value of foreign assistance. The question of extraterritoriality is now an economic question which should be solved advantageously to the both parties.

Some Cases from the Interior

The following reports of cases affecting foreigners and Chinese have been reported to The Review by Chinese and foreigners in answer to a letter of inquiry which was sent out to correspondents residing in the interior.

FROM CHU-CHOW, ANHWEI PROVINCE

A Chinese graduate of one of the leading Universities in Shanghai sent in the following:

"Three years ago there was a wholesale merchant in our city who served as an agent for the British-American Tobacco Company. At the end of the fourth year of his connection with the British-American Tobacco Company, the merchant went into bankruptcy. His indebtedness to the foreign concern was $3,600. The foreign company brought an action against the dealer through the foreign consulate, which transmitted the complaint to the Chinese Commissioner of Foreign Affairs at Wuhu. The case was finally brought before the City Magistrate who made a list of the property owned by the Chinese dealer, which list was submitted to the Commissioner of Foreign Affairs, and the foreign Consulate.

"After consulation with the representative of the company it was suggested that all of the property owned by the Chinese dealer should be listed and placed in the custody of the City Magistrate, and that when the dealer sold a piece or land or a house, one-half of the sale price should be sent to the foreign company to be applied in liquidation of the debt. After a long negotiation this was decided upon. Three years have now ellapsed, and, although the dealer has sold more than $10,000 worth of property, only a comparatively small amount has been paid to the foreign company. It is also reported that many of the sales were affected, with which the foreign company was not aware.

"At the same time this Chinese dealer owed $2,000 to another Chinese company. The Chinese company also brought an action before the City Magistrate directly. The Magistrate ruled that this debt should be paid within three months. The dealer failed to pay within that period and a second charge was brought against him. At the second trial the Magistrate ruled that the dealer had to pay the debt with interest within the following month. The amount was now paid without delay. Thus it may be seen that while the Chinese merchant was able to obtain action in his case the action instigated by the foreign firm is still hanging fire."

The correspondent who reported the above case stated in the course of his letter that at the present time, there are no formal courts in the different Hsiens of Anhwei Province except in the large cities and the capital of the Province. The City Magistrates serve consecutively as Judges which system produces much corruption. Foreigners are not affected by this because they live and conduct their business in places which do have courts and where lawyers are employed. Something should be done to guarantee terms of office under good behavior for Judges, with a provision that there must be no reduction of salary during the term of office and no transfer of post without proper legal procedure. The Chinese writer expresses the hope that one of the results of the investigation of Extraterritoriality by the International Commission will be to stimulate the Chinese toward an improvement of their judicial system, in order that the complete abolition of Extraterritoriality may not be far in the future. In conclusion, he states that the Chinese themselves must first see to it that they pay due attention and respect to the enforcement of Laws, and that Chinese jurists who become Judges may not become old-fashioned officials, but modern administrators of justice who will give expert, sound, impartial and efficient justice, and last to the end that the abnormal condition of Extraterritoriality may be abolished.

A REPORT FROM NORTH KWANG-TUNG PROVINCE

The correspondent, a foreign missionary, residing in this district reports as follows:

"To get a clear understanding of how justice is administered it will not be amiss to examine into actual cases. Recently two parties had a disagreement over school property. The persons involved in the case came to blows. They went to court. The Chien Ch'a Kwan after listening to the case called it a draw. The defendant had received the greater amount of pounding, while the plaintive received the greater injury. Both belonged to the teacher class so punishment was out of consideration. By calling it a draw both parties were satisfied since each had his "face" and the judge saved himself by remaining in the good graces of both parties. Thus the first point was settled. The second point at issue was over the property. This went to the judge who has jurisdiction over such cases, the Shin Shen Kwan, the judge connected with the Mayor's office. The dispute over the title of this property goes back over many years. The defendant claimed to have legal right to it, but as to this I do not know. The mayor evidently favored the plaintive, at least there is reason to believe he did not wish the plaintive to lose. The judge did not decide the case, but suggested the case be settled out of court. This second judge thus refused to bear responsibility, and thereby has not incured the ill-will or enmity of either party. The case is still unsettled and probably will remain so for some time to come. One person interviewed believed that by throwing the case back on the two parties to settle a greater opportunity will be open to the judge to receive hush money if either one of the parties has money and wishes to push a settlement.

"There was another case in which charges were brought against a certain teacher of one of the city schools. The charge was trumped up and the plaintiff really had no case. This case, since it was connected with schools, also went to the judge connected with the mayor's office. It was very apparent that the mayor did not wish the defendant to win, and that justice would be mockery if the case went to trial. The judge was a friend of the defendant, and on the other hand had received his appointment from the mayor who everybody conceded was for the plaintiff. The judge was in a difficult position. The case was brought to trial but before the court the defendant's name was deleted. The case was fixed up to the satisfaction of all, each party being equally reprimanded thus giving each of them his right status in society, and with "face" to appear before his friends. It was, however, very evident that the merits of the case were sunk into the background. It is also quite evident that in such cases it is a question of which party has the greater political or other influence. It seems as though decisions often depend not so much on the question of principle or of what is right or what should be done, but rather on what is the best policy.

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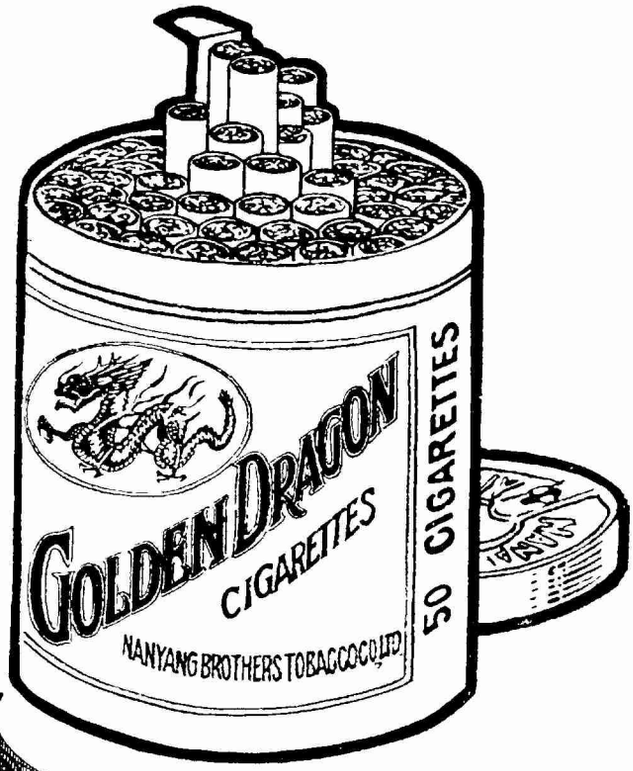

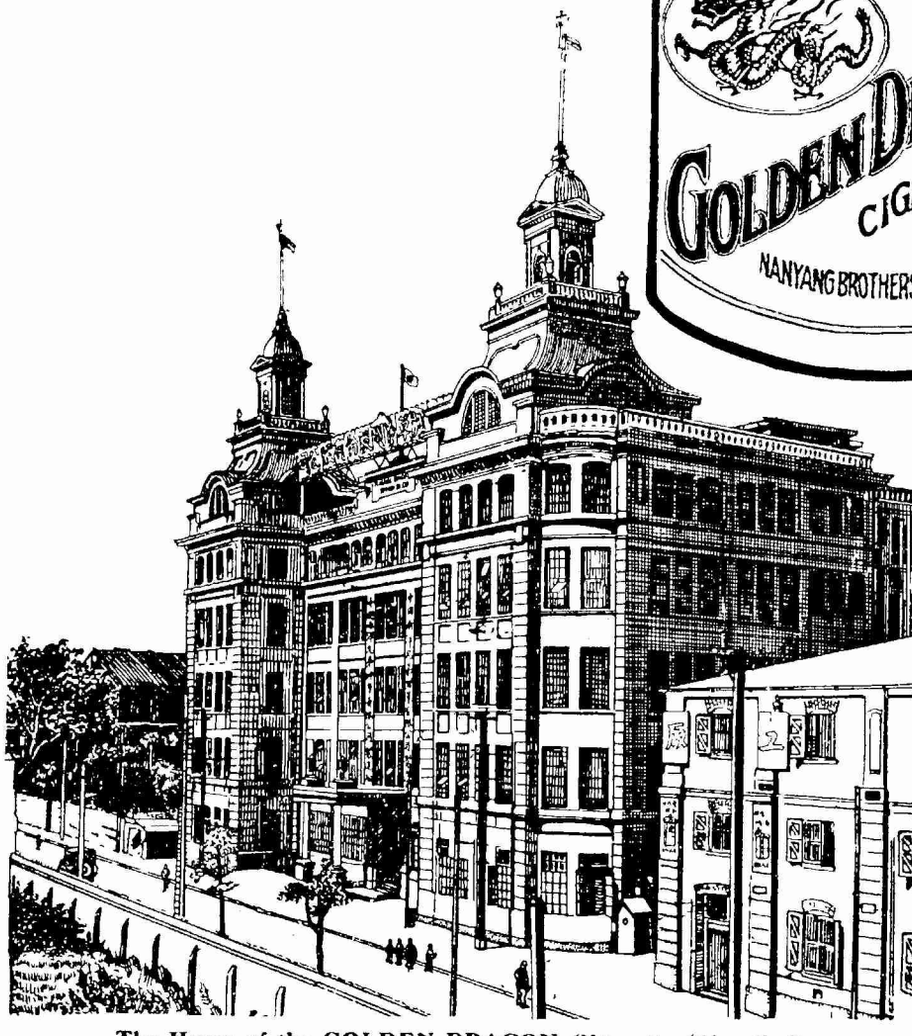

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"According to the opinion of some punishment in many cases is too severe. The people suffering from this are the poor and those without influence. In one case the plaintiff rented out his fields to the defendant. While the fields were in the possession of the latter floods washed them away. The defendant went to much trouble, both in time and labor, repairing the fields to their normal condition.

Claims Fields That Were Washed Away

"After spending so much time and labor he tried to claim the fields on the ground that the former fields had been washing away and did not exist. The new fields were his since he had actually made them. The judge decided the defendant was in the wrong and fined him heavily; besides compelling him to return the property to the plaintiff the original owner. Not being a lawyer I shall express no opinion, but the person reciting the incident believed the judge too harsh in the punishment. Since the destruction of the fields was not deliberate on the part of the defendant but presumaby would be classed as "An Act of God" the return of the fields to the owner and a reprimand would seem to have satisfied the claims of justice, so far as the plaintive was concerned. The defendant was in no way reimbursed for restoring the fields. He was at expense for this plus a heavy fine. In this case the influencial man was the plaintiff. The question is would such a decision have been made if the defendant had been the more influental.

"Recently six men were arrested on the charge of opium-smoking and the six of them together were fined $1,000., considerably more than $100. per man. One man, however, was released on the payment of $15. In the first instance the fine was probably too severe, and in the second the fine for the man released was reduced because someone interceded for him. From the above, and also judging from the way in which things are done nowadays by the great majority of people without regard for justice or right, unless judges are far above the average in their desire for justice and in their desire to decide cases on their merits, it would seem that those without influence, financial, political or social, must, in a great many cases, look and long in vain for justice. We are brought to this conclusion by events which have transpired before our own eyes.

"What has the administration of justice as above outlined to do with foreigners? Since the World War the members of the Basel Mission have been without the rights of protection guaranteed by treaty rights, since extraterritoriality as affecting the Germans was at that time relinquished. The German missionaries have lived in perfect peace and have been in no way discourteously or unjustly treated. Rather the Chinese have been especially friendly to them. To the question would this friendly attitude continue if treaty rights were relinquished, no positive answer has been received. Much would depend upon those in power. As one Chinese put it—"Court decisions depend much upon the power or influences back of the judges". That which now holds true with the Chinese would without doubt hold true with the foreigners, at least there is no evidence to lead us to think otherwise.

"Recently the Acting Mayor of the city expressed himself in the following manner: that if the German Mission middle school sought Government recognition thru registration he would so recommend since that school is making a contribution to education by the teaching of German, being the only school in the city teaching that subject, but that he could not recommend Government recognition to their grammer school, since there are many grammer schools here and their school is not, therefore, making any special contribution. The actual facts are he would use his influence to discontinue mission schools if the power were his. Since the judge who has jurisdiction over school questions is so closely connected with the politicians it is not difficult to see the disposal that would be made of mission schools once treaty rights were done away with. As one man said in my hearing today "The men in control here (in this hsien city) have no other desire than to rid the place of mission schools. To my knowledge such conditions do not prevail in Canton City, but they do here in this place."

"Not far from here the German Mission has an out-station school in which there has been some trouble caused by outsiders. This case did not come up in court, but on complaint by a member of the mission and request that something be done the officials replied they had better close the school. If such a case were taken to court it would be heard by the judge who received his appointment not from the higher court, but from local politicians. In still another affair which also never has come to court, promiment men of a certain market town demanded that the German Mission turn over its school to the public. This the mission refused to do and made appeal, personally, and not officially, to the officials. The latter replied in a very indefinite way that some good way of settling the matter would be found. As a matter of fact the men of that market town will not be able to take possession of the school unless they take it by force. If, however, extraterritoriality and treaty rights were relinquished to all, it is not difficult to conceive of the officials taking a hostile attitude toward mission schools and mission work. With the present political regime in control here in this part of Kwangtung, it is very hard to conceive of foreigners receiving justice at the hands of the officials or judges, since the latter are so directly influenced by the former and by public opinion, rather than by the merits of a case.

FROM NORTHEASTERN CHIHLI PROVINCE

The correspondent in this district, a member of one of the American Missionary Boards, writes in part as follows:

"For the past three years the District Magistrates and most of the police and other law enforcing officials have been repeatedly changed, as the country has come successively under the control of first one and then another military faction. In view of the disturbed conditions which has been prevailing recently, I shall attempt to explain conditions which existed in this area from the establishment of the Republic up to the opening of the present series of Civil Wars, some four years ago. The ideals of Chinese officialdom being what they are, and unregenerate human nature notoriously persistent in its characters, it is safe to say that when the smoke clears away and we settle down for another period of constructive peace, the country courts and police stations responsible for law and order in this region, will continue to function along the same lines as described in the following instances. From the standpoint of organization the Government in this area is headed in one of the larger central cities. The magistrates have almost limitless power in the area under their control, but usually death sentences are sent to Tientsin for approval. The majority of these magistrates are men of the old classical traditions, though there is an increasing number of younger, more alert men, who have had more or less contact with the new currents of life and thought in China.

"There is an abundance of justice of the type which seems to suit the Chinese mind; that is, by playing on all possible factors of friendship, kinship, brow-persuasion, beating, etc. The attempt is made to arrive such a compromise of the case in point as will at rea-

sonably placate both parties, save as much face as possible for all concerned, and release as much cash as possible for those responsible for the happy ending. There is no attempt, nor any thought, of judging the case strictly on its merits, without regard to favor, that is, to secure justice in the strict sense of the term. Neither party expects that, and it is doubtful if they desire it. This, of course, is not peculiar to this region since it constitutes the general point of issue between Western and Chinese ideas of justice and law enforcement. Even where bribery does not enter in, it results in what is often a temporary compromise, giving satisfaction to no one; and more often that not, the long purse figures decisively, and there is not even an honest attempt at a fair decision.

The Magistrate Changes His Mind

"Some four or five years ago, an American Protestant missionary investigated the possibilities of opening a small mission in the large market town of Kankou, over 100 miles north of Shanhaikuan. On his first visit he secured an option on a suitable property and met with every encouragement from the gentry and people. Unfortunately he noticed the havoc being wrought among the people by the operations of several Japanese morphine merchants, carrying on their illegal trade in this town. On his return to Shanhaikuan he visited the Magistrate with whom he was on friendly terms, and protested earnestly against the damage being done to Chinese lives by these morphine merchants. Some weeks later when he applied for local permits to again visit the place and begin his work, to his great surprise he found it utterly impossible to secure such permit, or even to see the Magistrate and inquire the reason. His whole project had to be given up, for the simple reason that the wise magistrate saw there was not room in that town for both a man working unselfishly and courageously for the best interests of the common people, and these illegally licensed morphine agents who were paying in some hundreds of dollars monthly to the magistrate's treasury.

"Some six years ago I encountered the following interesting case in my travels on the Lanhsien District. A comfortably well off Christian man had a long standing debt against a man somewhat poorer than himself, but still in fair circumstances. As the account had run for some years with no sign of any intention to settle, the creditor was bringing a reasonable amount of pressure to bear on his debtor, with the threat of going to law unless a satisfactory compromise could be reached out of court. Just at this juncture, and absolutely ignorant of any such situation, the writer together with his Chinese colleague arrived one evening at the town where both these men resided. As we drove into the suburbs of the market town, the Chinese sitting in a fourwheeled buckboard or mountain buggy, and the foreigner riding horseback, we unconsciously passed the home of the debtor. One of his neighbors saw and recognized us, and immediately hurried to him say ing "Oh, it's all up with you now! Here is the foreigner with his four-wheeled horse carriage to press that lawsuit against you!" It is claimed, and denied as emphatically, that a friend or relative of the creditor was responsible for this inexcusable performance. We spent a few hours at the local church and went on to the county seat where we were to spend some days in meetings: and did not learn till the next day that the unhappy debtor had, immediately following our arrival, committee suicide by jumping down his well! Immediately the processes of "justice" came into play, the creditor and another member of his family were thrown into jail on the charge of having "persecuted to death" the unfortunate debtor. Neither then nor at any stage in the proceedings was there any attempt by the foreigner or the "church" to influence or interfere in the action taken by the court. The creditor was kept in jail for over a year and a half without trial, and was released only after most of his property and money had been absorbed by the officers of the law; and the debtor's family secured the annullment of the claim against them which had caused the trouble. In this case everyone who was not vitally interested agreed that manifest and gross injustice was done the creditor; and yet it is commonly made and accepted charge that persons are "persecuted" into committing suicide, etc., thus turning the tables against their enemies.

"I have been on friendly terms with many of these district magistrates, but have known only two who made any serious attempt at uprightness in the administration of their office; and their tenure of office was usually very short in any city. The most upright magistrate I ever knew lasted less than six months in the city where I was then living. Soon after assuming office, he started a vigorous compaign against gambling, an ever-present evil in China, and a source of much crime. A very influential and wealthy man from an adjoining hsien city sent his agents to the city of the magistrate who was doing his utmost to suppress local gambling, to solicit bidders in some of his large gambling rings. One of the agents was arrested and detained in prison, on the perfectly justifiable charge of law-breaking. This so angered the wealthy gambling patron that, thru the influence of his own local magistrate who was favorable to gambling, and possessed some influence with the Governor in Tientsin, he succeeded in setting in motion (it is alleged thru the liberal use of money) such strong forces that the offending magistrate was promptly removed from office.

The Wicked Uncle and His Nephew

"Some months ago on a beautiful Sabbath morning the writer's attention was attracted to a crowd of craning necks in the nearby Mission hospital yard. Investigation found them to be staring with heartless curiosity at the pathetic corpse of a man who had during the night hung himself with his girdle from the ceiling of one of the cheaper ward rooms. He was a man who had been defrauded of his inheiritance by a rascally uncle, the latter a man of wealth and influence who had first robbed Nathan of his vineyard, and then to rid himself of the annoying presence of this poor relative, had him shot in the foot in a framed-up scuffle with a local tough. The uncle then claimed he had shot his nephew in self-defence, and on the circumstantial evidence of the slight foot wound, secured his arrest on the serious charge of attempted murder.

"He was taken to the county magistrate, then under police guard to the mission hospital for medical treatment. Shut away from all friends or legal counsel, discouraged in the hopeless struggle against the power and influence of his unscrupulous uncle, the poor man did the characteristically Chinese stunt of ending his own life in the last desperate hope that this might turn the tables against his destroyer. Later in the day the magistrate visited the hospital in his chair, held an impressive inquiry over the poor half-naked body; and so far as could be ascertained by later inquiry, that was the end of it. Probably some money changed hands; certainly there was no attempt to secure even the Chinese brand of "justice".

"It is difficult to see how this phase of affairs can be readily altered. The magistrate is helpless in the hands of the local gentry and wealthy land-owners; dependent on their good-will for the necessary funds for his compensation and expense of office, and utterly

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VIEWS ON EXTRATERRITORIALITY

Mr. Tong Shao-yi

Former Premier and Leader of the Moderate Wing of the Southern Party

"The sanctity of the law courts is an elementary condition to the development of good government.

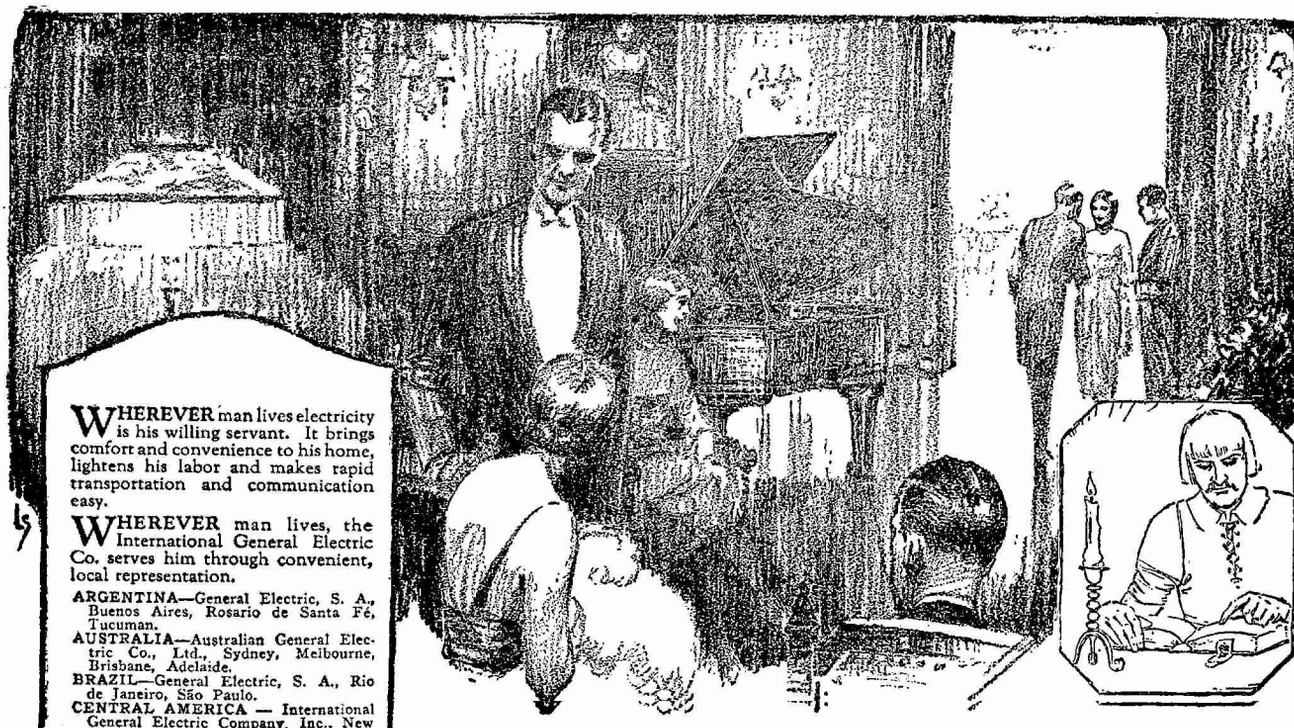
"In China, unfortunately, a system has come into existence of certain individuals regarding themselves as superior to the courts. They not only cannot be subjected to judicial procedure, but they interfere with the operations of justice. They write letters to the judges making suggestions as to decisions. They insist upon the appointment of their henchmen as judges and order such judges to obey their dictates. They even hold courts of their own on the subterfuge that they are enforcing martial law and throw men into prison without due process of law.....

"The judiciary has to be reorganized. Trained experienced judges have to be appointed. The judges have to be absolutely independent and the body of the law must be respected by all officials of the government....

"In rewriting our codes and in remodeling our courts and in improving our methods, our point of view should not be to satisfy any commissions appointed under the Washington Conference, but to benefit the Chinese people...

"What we need is a thoroughly considered plan which will give the Chinese people a judical system and a law which shall protect them and their property....

"As a matter of fact no system can be suitable for the Chinese people which is not good enough for the foreigners living in China."



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at their mercy as concerns his tenure of office,and these gentlemen have no desire to see a new regime of justice established which their money and influence would be unable to control. In the meantime the common people, the backbone of China, and despite their ignorance altogether the most hopeful and admirable feature in the present hopeless national situation, continue to suffer as the pawns and helpless victims of rapacious officialdom and rascally plutocracy.

"The constant repetition of similar incidents in every county one travels through; the invariableness with which local influence and money tip the scales of Chinese "justice"; the helpless suffering of the multitude under the heartless heel of the few; and the apparent hopelessness of adequately changing this rotten condition of affairs, tempts one to invoke the language of Heremiah as he wept over the decadent Jews of his day: "A wonderful and horrible thing is come to pass in the land — the prophets prophecy falsely, and the priests bear rule at their hands, *and my people love to have it so!* and what will ye do in the end thereof?" There is the rub, the people tamely submitting to it! From our knowledge of Chinese psychology and mental habits, it is extremely doubtful if the application of our austere ideas of abstract justice would be as congenial to them as the openly corrupt, unsatisfactory, but *very human* regime of injustice under which they now suffer."

ANOTHER CASE FROM ANHWEI PROVINCE

The correspondent who reported the following case is also connected with an American missionary Board.

"This district of Anhwei has a reputation of supplying officials for various parts of China. The district is extremely conservative and one finds an unconcealed veneration for the judicial procedure of Empire days. The judicial system here is most complex, having several systems working parallel and intermingling in actual practice, and capable of many variations. There are two divisions; one working in and applying to the city of Luchowfu, the other working in and applying to the country districts. Theoretically at least the hsien magistrate is the supreme authority, but in practice his power is very limited. The power exercised by the magistrate depends upon the man and his personal ability to command the respect and allegiance of the leading families of the hsien.

"Upon occasions I have seen the city god, 'Ch'en Hwang' and the earth god, 'T'u-ti' consulted on questions in which the parties administering justice felt themselves unable to solve the difficulty to the satisfaction of all concerned. This applies to all judicial officials from the lowest to the highest, iucluding the magistrate. In addition to this we have the Guild system which assists in making, regulating, endorcing, and settling matters relating to commerce and trade. The guild system endorces its judgments by use of ostracism, fines and the use of private and merchant soliery.

"In the country we find the following systems working side by side, the 'ti-pao' system and the local soldiery in each of the 21 'ch'u'. the family system, the feudal lords of the Uei-tz', and the magistrate. There is not a single area which lacks the administration of the gods of the Earth and Agriculture. On occasions one finds the goddess of Mercy, Kwan-yin, assisting in deciding guilt and dealing out justice in cases where human means have failed to reach a decision.

"In each of these major systems there is no regular line or route for appeals in which the party or parties concerned wish to carry the case to a higher court.

"Last year a new wall was built around our Boys' school compound. This increase of "face" mingled with other elements led the students of some of the government schools to destroy part of the wall. Protests were made to the schools whose students were involved, to the police courts and to the magistrate. The latter came and examined the wall, promising to prosecute any offenders if caught actually destroying the wall. Later we took into custody some students caught "red handed" in the destruction of the wall, and called the police. They were escorted to the police station and examined by the local court. Among other things their names and addresses were asked. Upon receipt of this information the parents of the boys were notified. One boy whose father is the head of one of the most influential families of the city sent his card and a letter asking for the immediate release of his son, stating that he was sure that his son could not be guilty of such an offence. The son was immediately released with due apology on the part of the police for having been so blind as to have arrested him for a criminal. The police though knowing that this youngster and the others were guilty of the offence could not push prosecution because the father of the model son could cause them to loose their present means of livlihood. Eventually all were released without anything being done.

Selling Stolen Articles on Commission

"Just this winter the hospital and many of the private patients of the institution were being robbed of various articles. The matter was reported to the police but no action was taken. Later one of the nurses was in a tailor shop seeing about some new clothing. The clerk offered for sale his own watch which had been stolen some weeks before. The nurse bought the watch and learned from the clerk that he had received it from a former student of the nurses training school to sell on a commission. The police were notified to arrest the guilty, but they refused unless accompanied by someone from the hospital. He was arrested by the police accompanied by the nurses of the hospital. At the police station there was no room or semblance of a jail in which to place the prisoner. He turned states evidence and caused the arrest of his accomplice. Some very cold nights were spent by these two on the ground of an open court. The lost articles were returned but no punishment was dealt out to the thieves.

"For a couple of years or so the foreign ladies residing in Luchowfu had been troubled by the attentions of an insane man when they were on the streets. He was a huge man always with a heavy club. On numerous occasions the ladies in going to and from each others homes were attacked by him. At another time some of the single ladies were going to call upon a Chinese Christian woman outside of the East Gate. He happened to be in the same part of town and upon seeing them started to chase. He was in the act of overtaking them when they took refuge in the Christians' home. This good woman had presence of mind enough to close the door and bolt it. Before the man could force the door they were safely on their way home by a back street. Many Chinese observed the chase but did not interfere because of their fear of the man. The magistrate was asked to do something about the man but accomplished nothing. Later this same insane man joined in a mob who were striving to kill a foreigner for taking pictures outside of south gate in March 1924. Had it not been for some Chinese friends this foreigner would not have survived. He was robbed of everything except his shoes, sox,

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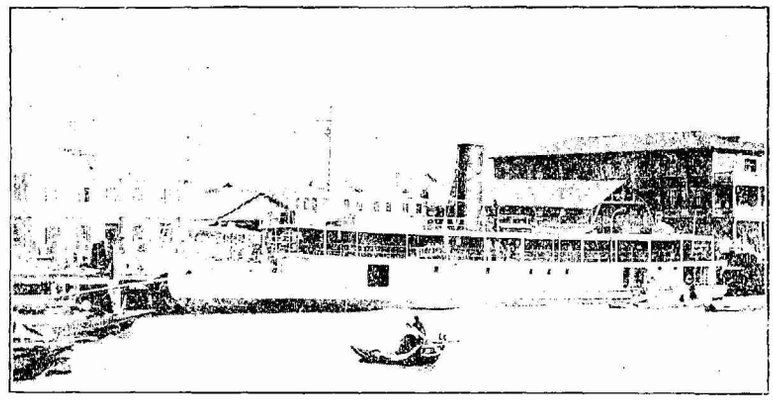

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and puttees. No action was obtained against the insane man until appeal was made to the American Consul. The man was departed. Just this week he has returned and will probably be up to his old tricks again. It is not safe for the ladies to be on the street. As officials are ignoring his presence it may be necessary to appeal to the Consul again.

"The magistrate's court is located in the old "fu" yamen. Court is held in the middle of the night. One night one of our foreign doctors received a call to the yamen. As he was leaving he heard the clanking of chains mingled with terrible groaning and outcrys. Upon inquiry he learned that the magistrate was trying some criminals supposed to be guilty of kidnapping a rich Chinese man. The doctor asked for and was granted permission to observe the trial.

"He found the magistrate seated behind a table just inside a small alcove on the north side of an open court. Opposite him, seated behind two tables were court clerks, writing down the testimony. Outside on the porch like space was a wooden platform, upon which were mounted two uprights. These were held rigid by two braces, one on either side. They were forked at the top. Running from one fork to the other was a large wooden pole. This passed back of the prisoners' neck and head holding it down; his arms were brought backward, upward, forward and then in such a way that his palms were on top of the pole, to which his wrists were secured. His knees rested on the hard boards forming the base of the machine. Near the bottom of the uprights were two holes thru which was passed a small wooden pole. This also passed back of the prisoner's knees so as to prevent his rising from the kneeling position. His hands and ankles were connected with chains. On either side of the prisoner stood two assistants who twisted his arms. At his back stood a man armed with a short heavy square rawhide whip. At each end of the machine stood attorneys who assisted with the cross-examination of the prisoner. To the left and in front two men who had confessed their guilt. To the right and a little to the rear of the prisoner was a pet monkey amusing itself by climbing up and sliding down one of the upright timber supporting the roof of the building. Around this whole group was gathered a semi-circle of yamen retainers, watching the "great joke" as they referred to the trial. The prisoner had been in this machine for over an hour. He had been implicated by the other two and was proving a bit unwilling to admit his guilt.

"His torture might be divided into several parts as follows: (1) being forced to remain on the hard boards on his bare knees in a kneeling position is severe torture; (2) the pole exerted enough pressure to shut off blood supply to the lower leg and produce numbness. It also held the knee to the board: (3) his leaning forward with his head and chin elevated around the top pole caused a heavy unnatural strain, producing a torturous pain in the neck; (4) the twist on his arms accentuated by the lacerations of his wrists produced an almost unbearable pain in the arms; (5) he had been there so long he was exhausted. He now and again would try to relieve the pain in his neck by letting his head droop but would immediately be reminded that he must look upon the magistrate-a difficult feat for a contortionist. To relieve his wrists and back which was in a bowed position, he would try to rest his weight on his hands. This would only increase the pain in the knees. He had been in this position for over an hour.

(Continued on page 62)

"China's Problems Internal, Not External"

By Silas H. Strawn

The following is the text of the address delivered at Tsing Hua College, January 15, 1926, by Mr. Strawn, American delegate to the Customs Conference and American member of the Commission on Extraterritoriality.

IT gives me much pleasure to be here this afternoon because I realize that this group of young men perhaps has more in common with the young men of America than has any other group in China. I say this for the reason that I know each year a large number of young men go from this College to the United States to complete their education. Thus they become acquainted with our people, our form of Government and our commercial and industrial activities. The young men of China seem to be coming to a realization of the undeniable fact that no nation can become great and its people become prosperous unless it extends its commerce with the other nations of the earth.

I have been in China too short a time to criticise her educational system. China was at one time regarded as the most cultured empire in the world and it may well be that in the long run her present system of education is superior to the systems of other countries which are more intensively commercial than is China. In passing, however, I cannot refrain from giving expression to a few ideas on the subject of education which come to me as the result of an experience of more than 39 years in the active practice of the law with the ramifications into the fields of finance and commerce to which my legal activities lead.

To-day no one can expect to attain to any considerable degree of success in any field of human endeavor unless one be thoroughly prepared for the work undertaken.

This preparation necessarily means a thorough education. This education must first be general in its character in order that the requisite background may be established, and then special, relating to the particular activity which is to be pursued.

By a general education, I mean that the student not only should be well grounded in the classics, in history and in literature, but should also have a general knowledge of the sciences so that he may be able to realize his ideals.

Education Must be Used

Ideals are of little avail in making one's livelihood or in contributing to the welfare of one's family or of one's country unless one is able to employ those ideals in developing something that is practical. Education is of no value unless one has the capacity to make use of it.

Unless one inherits from ancestors an abundant competence, the struggle for existence not only in China, but everywhere else is too keen, in these days, to permit one to spend but a very small part of one's life in idealizing.

I would not be understood as discouraging the development of ideals because in the final analysis I believe that everything that is practical must have its inception in an ideal. The peril I would point out is that we must not indulge the ideal to the exclusion of the practical.

I have been very much interested visiting the various palaces, temples and walls which I have seen in China, constructed and decorated with marvellous skill and infinite effort. These are indicative of a glorious past. To them the people of China may well point with pride. But I submit, that if China is to take the place among the great nations of the earth which her inexhaustible natural resources and the intelligence, frugality and industry of her people warrant, the attention of her people must be devoted not to revelling in the glories of the past but rather to the development of her great resources, her industries and her commerce.

The most encouraging signs of the future possibilities of China that I have seen here are these colleges and universities, erected and carried on for the purpose of enabling the young men of to-day to prepare successfully to meet and solve the many problems, governmental, social, economic, industrial and commercial, before the young men of China.

We hear much about China being the victim of unequal treaties; that she is being ground under the heel of imperialism; that her people are suffering from the injustices of extraterritorial rights, and that her sovereign dignity is continuously impinged. Since I have been in China it has been my duty to study the economic, political and social conditions obtaining here, and while it would be absurd for me to assert that I could accurately diagnose all of these conditions, I believe I can confidently state that I have thus far seen no convincing evidence that China's present day troubles are in any degree attributable to the so-called unequal treaties, or the imperialistic attitude of the foreign powers.

China's Troubles Internal

On the contrary, the evidence seems to be overwhelming that the troubles of China to-day are internal rather than external, and that unequal treaties, extraterritoriality, tariff autonomy and imperialism are political slogans which are availed of by the agitators to excite the people of China into a frenzy of criticism and unrest. I cannot take the time to go into the various reasons for the assertions I have made, but I ask you, as careful students of Chinese history, and as young men who have the welfare of China uppermost in your hearts, not to be led astray by propaganda or political slogans, but that each of you sit down calmly and carefully and study the facts about present conditions in China before you come to a conclusion as to the cause.

While, as I have said, I do not believe that the so-called unequal treaties have anything to do with present conditions in China, nevertheless I am conscious of the fact that whether I am right or wrong in my conclusion, there are a vast number of intelligent people in China who believe that the so-called unequal treaties have something to do with present conditions. Recognizing this feeling, I conceive it to be my duty as a Delegate to the Tariff Conference, as well as a Commissioner studying the subject of extraterritoriality in China, to do everything in my power to remove the so-called inequalities in the treaties of which the Chinese people are now complaining. There is no desire on the part of the United States to retain any treaty with China which the Chinese people regard as unequal or unfair. My effort is try to ascertain what the Chinese people really want.

China is a country of vast resources and great diversity of climate. Although in extent of territory

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China is but one million square miles larger than the United States, there are living here more than four times as many people. We have in our country more than 260,000 miles of railway; China has less than 7,000 miles; in addition to the railway we have hundreds of thousands of miles of motor highways running in every direction. There is no part of our country, however remote, that is not in communication every day by rail or motor with every other part of the country.

I noticed a few days ago that there were in China about 8,000 motor cars. At the same time I noticed that on a single day in the month of October last, one automobile factory in the city of Detroit turned out 9,109 motor cars, and that for the month of October the production of that plant was 204,827 motor cars. There are now in operation in the United States more than 18 million motor cars and trucks. I give you these figures not to boast about my own country nor to make any invidious comparison between China and the United States, but simply to indicate to you perhaps some of the reasons why the poor man in my country has a better home, better clothing, more food, better schools more amusement and more of everything that goes to make him happy than has the poor man of any other country.

China Has Great Possibilities

The resources of China are just as varied and just as rich in everything that would go to make her people happy and prosperous as are the resources of the United States. With a stable Government, no wars and the means of communication established, I am sure the people of China would be happy and prosperous instead of being as they are now, engaged in a desperate daily struggle with starvation.

The people of China cannot accumulate anything for to-morrow's needs because the margin between what they create and what they consume is continuously exhausted and dissipated in futile and purposeless wars. Wars carried on not to establish any principle, not against a common enemy assailing the integrity of the county, but for the sole purpose of satisfying the ambition of the warlords for greed and aggrandizement.

One of the most potentially prosperous railroads in the world is the line running from Peking to Hankow, through what may be called one of the garden spots of the earth.

This railroad which has an enormous earning capacity and is very much needed not only as a means of through communication, but to serve the people along the way, can run but a small portion of the time in the service of the public because its equipment is seized, its operation demoralized and its revenues appropriated by the warlords. I quote from the last official report of the Ministry of Communications to the Chief Executive of the Chinese Republic (September, 1925).

"From the Kin Han Railway alone $10,000,000 is annually appropriated by the militarists. The amount taken from other railways and the telegraph administration is also enormous. The railways and telegraph administration have even been forced to finance the purchase of warships, aeroplanes and munitions by promissory notes. High military officers sometimes even pledge the incomes of communications to secure loans directly. On the other hand, the railway and the telegraph administrations are frequently without the means to maintain themselves and are forced to borrow money at high rates of interest to pay wages and buy materials for urgent

requirements. The total amount of money that has been detained by militarists, up to the 13th Year of the Republic amounts to $180,000,000, or $250,000,000 including interest. It is obvious that the only source of income of communications comes from operation and it is absolutely necessary that the properties pertaining to the different systems shall be properly maintained and the operating funds protected. * * * Moreover, business conditions vary from year to year and district to district. To have a balanced development, the situation of all branches of communications must be considered as a whole, so that the profit of one may be used to help the development of another, the income of one district may be devoted to the aid of a less fortunate one, and the revenues of good years may be laid aside for the deficit incurred in bad times. By a systamatic plan of adjustment and reserve, the enterprises of communication may be promoted and expanded to the advantage of the country as a whole. But if the funds at their disposal are taken away at will and recklessly spent for non-productive projects, leaving the various equipments to deteriorate the enterprises themselves will suffer and the nation will go down with the decline of communications."

No railroad can be operated and no country can prosper with conditions such as that report describes.

Your president has asked me to state to you the policy of the United States toward China. Our policy toward China has been so frequently stated during the last few months that you are doubtless all familiar with it. That there may be no misunderstanding, I shall repeat, very briefly, our policy:

America's Friendly Policy

Under date of September 3, 1925, our Secretary of State transmitted to the Chinese Foreign Office a note, from which I quote: . . .

After making that declaration we further offered to do the following (1) To authorize the levy of a surtax of 2½ per cent to be effective on all goods on February 1, 1926, and to collaborate immediately in the preparation of a schedule of luxuries upon which a rate of 5 per cent shall become effective not later than July 1, 1926; (b) To prepare a new treaty which should provide that until tariff autonomy should be effected there should be a new and uniformly enforced schedule of rates from 5 per cent, the present rate, up to 12½ per cent on imports, and from 5 per cent, the present rate, up to 7½ per cent on exports.

This is not the time or place for me to go into a discussion of the reasons why our plan has not been adopted. Suffice it for me to say that the American Delegation has at all times since the beginning of the Conference been willing to concede to China the utmost limit of tariff that the traffic will bear.

The United States is but one of thirteen nations sitting in that Tariff Conference, each of which has its own ideas about tariffs, without any reflection on any of the other nations or my colleagues, each of whom, I believe, is actuated by an earnest desire to do what he can to relieve the situation in China. It is obvious that it requires time for all of those nations to come to an understanding.

Double Tariff Problem

It must be remembered that the ultimate Consumers (the Chinese people in this instance) have the tariff to pay, and that however great the necessities of China may be, the tariff must not be raised so high as to deprive the citizens of China of the right to purchase foreign goods and at the same time fail to produce increased revenue because the traffic will not stand the proposed burden.

The Chinese Delegates in the Tariff Conference are gentlemen of great ability, loyalty and integrity and are striving their best to formulate a just tariff plan and to come to an understanding with the other powers about the many difficult problems that are to be solved, in order that the maximum of revenue from the tariff may be raised and that China's national credit and integrity may be maintained.

I believe the more thoughtful citizens of China have confidence in their representatives and are patiently waiting the outcome of their efforts.

Extraterritoriality

Our extraterritorial rights were freely given to us by China in the treaty of 1844 at a time when China was very glad to be relieved of the responsibility of administering justice among foreigners. That treaty was not the result of coercion or duress. Indeed the absurdity of the assertion that China was coerced into her extraterritorial treaties is apparent when we remember that China concluded an extraterritorial treaty with Switzerland as late as June, 1918. Certainly it cannot be said that China was coerced by the Swiss navy, there being no such thing.

Our policy on the question of extraterritoriality is concisely put in the note of the Secretary of State from which I have quoted. More than 22 years ago our Government expressed a desire to surrender those rights when the state of Chinese laws and the arrangements for their administration warranted such action. The purpose of the inquiry now being made by the Commissioners representing the foreign powers is to ascertain the facts about the state of the Chinese laws and the arrangements for their administration.

There is no desire on the part of the United States to retain its extraterritorial rights in China a moment longer than the protection of the lives and property of its citizens seems to require. Were there a stable Government in China, the problem would be easy of solution.

Finally, my young friends, I repeat, the trouble with China is internal not external. Too much war and too many taxes of all kinds to pay for war. The other nations are willing to let China raise her tariff just as high as her needs seem to require.

They have already signified their willingness that China shall enjoy tariff autonomy on January 1, 1926, exactly as proposed by the Chinese Delegation. The solicitude of other nations is that the tariff shall not be so high as to produce no revenue and that the revenue thus produced shall not be dissipated by the warlords in futile and sanguinary wars.

The foreign nations wish that the Chinese people shall receive the benefit of the revenues they create to the end that a new China may be born and the Chinese people may become comfortable and independent, if not indeed prosperous and rich.

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VIEWS ON EXTRATERRITORIALITY

American Policy in Respect to Extraterritoriality—a Statement By Mr. Frank B. Kellogg, American Secretary of State

"The American Government is willing, through the Extraterritorial Commission, to examine the whole question and desires the Commission to make a speedy report with recommendations upon their findings which will enable this government to consider what, if any, steps may be taken with a view to the relinquishment of its extraterritorial rights. I know, in a general way, that within the last few years China has made some progress in the enactment of laws, in reform of her judicial proceedings, in the education of judges and lawyers, with a view to fulfilling her aspirations to be relieved of these extraterritorial restrictions upon the exercise her sovereign powers.

"I believe the people of the United States sympathize with these aspirations of the Chinese people and that this government would be willing to give up these extraterritorial rights as soon as China shall demonstrate that her law and the administration of the laws and judicial system are adequate for the protection of foreign lives and property within China. China has invited commerce and development and, of course, it is due her as a sovereign nation to fulfill her obligations under the laws of nations and to protect foreigners in their lives and property. I am sure that the United States has always been most desirous to respect and to uphold Chinese sovereign rights and the development of a stable government.

(*Continued on page 86*)

Mr. J. E Jacobs, American Technical Expert on Extraterritoriality Commission

Machinery of Justice Works Apparently Without Friction in Huchow

(*Continued from page 38*)

Police Courts for Minor Cases

In Huchow there are eleven police stations each of which operates a police court, which handles minor cases of law infraction. These courts may impose imprisonment for no longer that seven days, and fines up to ten dollars. All cases of more importance go to the District Court. In addition to the courts mentioned there is also another institution conducted by the gentry of the city in cooperation with the police. This is a sort of arbitration board. By it the attempt is made to settle any case brought before it in an amicable manner, by mutual agreement. The attempt is likewise made to induce people to bring their case before this board instead of going to the District Court. The Board had no power of enforcing its judgments, but has proved a valuable adjunct to the administration of justice in the district.

On being asked his opinion as to how foreigners would fare before Chinese courts after extraterritorial rights are surrendered, Judge Shen expressed himself as believing that many new and difficult problems would be presented to the courts, but felt assured that they would be worked out satisfactorily. He believed that foreigners would secure justice if they found it necessary to appear before a court, whether as bringing suits or acting as defendants. He was satisfied that foreigners would find it as safe to reside or to travel in the interior under Chinese protection and subject to Chinese law, as they do now under consular jurisdiction and with special rights. No case involving foreigners, he said, had ever been brought before his court. At present under extraterritorial laws should a foreigner be arrested in this district his case would not come before the District Court but would go to the District Magistrate and be summarily decided by him.

Chekiang Judges Hesitate When First Foreigner Comes Up for Trial

(*Continued from page 28*)

the courts have not to do with the buildings and physical equipment, nor with the civil and criminal codes and the regular court procedure, nor with whether he will be given three good meals a day and a foreign bed to sleep on. These will naturally follow. The real question is whether the courts are and will be efficient out-side of their regular routine. How long is the arm of justice, and how far out-side the regular routine will it reach? Is justice as it is administered here simply passive, waiting to deal only with those who come before the courts, or it is militant, reaching out to protect the innocent and punish the guilty? How much of a sense of responsibility does it have? The scales of justice are all right, but will the machinery of the courts in its present working bring the question to the scales for weighing?

What Will Be the Attitude of the Courts?

The foreigner, with his various interests and occupations, is here in the land, an anomaly perhaps, but here nevertheless. With the passing of extraterritoriality he will be more here than now, for then he will pass from the confinements of the foreign concessions out into the broad land. These foreigners know that there are impositions of many kinds, which the courts do not now correct on behalf of there own nationals. Will they be more active, or no more active on behalf of the foreigner when he loses the protection of his own laws? Will special courts be created for handling the business of the foreigner and which will see that the foreigner is given protection? Again these are questions which the foreigner wants answered. The opinion here among the members of the bar is that the interests of the foreigners in this section are not likely to come before the local courts. They rather expect that there will be special courts in Shanghai and other consular districts which will have jurisdiction over foreigners and their legal affairs.

Special Courts For Foreigners Suggested

Such special courts apparently are the wish of the local legal profession. They feel, too, that foreign legal counsel ought to have access to and full privileges in the courts where foreigners are tried. Their argument is that because of the language difficulties involved in this that nothing less than special courts in English speaking centers will meet the need. There are lawyers here, too, who hope that the foreign powers concerned in the conferences on tariff revision and extraterritoriality will have it definitely agreed that a reasonable portion of the increased revenue from the revised tariff schedules shall be set apart for the establishment of the special features of court administration which the coming of the foreigner into its jurisdiction will certainly call for. Whatever the out-come of pending question and changes, it will not be unfair to point out that the present system of justice for the foreigner, including his own special courts, can not be called even a qualified success. There are few firms of foreign registry which do not have their great files of unsatisfied claims against Chinese customers. It is not that the courts are wrong, but that behind them there is no stable government to see that court decisions are carried out. A change from "homeside" justice to that of China will not affect conditions behind the machinery. Perhaps the final question for the foreigner after all is whether he shall not trust the Chinese sense of justice and reasonableness, and perhaps not least their growing sense of national pride to see that the right thing is done in questions in which the rights of the foreigner are involved. Certainly there will be increased profits in every kind of contact which the foreigner has and will continue to have with the people of the nation. Perhaps the risks of many of these contacts will be more, but there are many who think they will be less. Will it, finally, be out of place to say to big business, to the missionary enterprise and to every other sort of contact which the West is trying to establish with China, "Move out into the interior, and away from the restrictions of the concessions where you have much, and more shall be added unto you; yea, ye shall grow stronger and larger and more vigorous in the untrammeled, legally unrestricted atmosphere of friendly intercourse with a friendly, warm hearted people, who in the final analysis are just as human and as much moved by the same human instincts and appeals as you are?"

VIEWS ON EXTRATERRITORIALITY

Calvin Coolidge

President, United States of America

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Extraterritoriality and the Mixed Court at Shanghai

(*Continued from page 15*)

notorious fact for some time that the Canton Government does not recognize the so-called Peking or Central Government. The Kuominchun is alleged to be sending its first Army against Mukden, its second Army against Hupeh, and its third against Shantung. [2] Tuchuns rise and fall with kaleidoscopic rapidity, and the homes and property of innocent country people and non-combatants are looted by defeated and retreating troops. Foreigners, although they now enjoy extraterritoriality, are not always exempt from the ravages of glorified coolies garbed in the uniforms of one of the many Warlords. The internal condition of China today is perhaps worse than that of any country in the world. "Half-baked" and illiterate students prate about China's Pseudo-sovereign Rights, distribute anti-Christian literature, promote strikes and stir up the populace with anti-foreign pamphlets. Before China can expect a revision of the treaties and the relinquishment of extrality she must first clean house, abolish Militarism and establish a government which can enforce its laws.

In the second place, China recognizes no Constitution. During the last twenty years China has had no less than five Constitutions. The Peking authorities have declared null and void the so-called Permanent Constitution (1923) because, as they claim, its enactment was procured by bribery. The guilt or innocence of the Parliamentarians who are alleged to have received money for enacting this Constitution has never been determined by any competent tribunal. At the present moment no Constitution is being enforced. A temporary government is in power in violation of the provisions of all of China's Constitutions. China in respect to her Constitutions would seem to bid for first honors with Mexico whose Constitutional career, to say the least, has been vacillating.

In the third place, China has not enacted any new laws to amount to anything in the last eighty years. It is true that she has enacted a Provisional Criminal Code which compares well with those of other countries, but outside of this she has done nothing except enact a Trade-Mark Law and a few other statutes of small consequence. Certain Draft or Provisional Codes, such as the Civil Code, the Code of Civil Procedure, Regulations Relating to Commerce, etc., have been drafted, and in some cases promulgated by Presidential Mandate or order of the Department of Justice. These laws, however, cannot be considered in force, because they have not been enacted and passed by Parliament. Chinese law, particulary in the interior, is very little different from what it was at the time that extraterritoriality was granted. The old Tsing or Manchu Code is largely enforced in the interior provinces.

In the fourth place, a good many of China's laws are unsuitable to apply to foreigners. In China a qualified form of polygamy still exists. Divorce may be obtained by mutual consent. Wills in the Western sense are unknown. Property is not owned by individuals separately, but by families collectively. The head of the family may not will his property, even that acquired by himself. He may, however, designate a particular part of his property for a particutar son or member of the family. Under a holding of the Chinese Supreme Court a foreign corporation having a branch office in China has no corporate entity, and the local manager is liable to pay the debts of the concern. [3] This means that the manager of any large foreign firm in China would be, if extrality were abolished, liable to pay the debts of the company of which he is manager. In all civilized countries foreign corporations are permitted to do business, provided they comply with certain regulations. The system of holding land and passing title to real estate is very vague, incomplete and often dangerous to the purchaser.

In the fifth place, Chinese procedure is incompatible with Anglo-Saxon ideas. Cases in Chinese Courts are tried without a jury. No cross-examination of witnesses by counsel is allowed. If counsel desires to ask questions of a witness they must be asked through the Court. All kinds of evidence is admissible, both direct and hearsay. The usual procedure is for litigants to give their lawyers powers-of-attorney. The lawyers then go to Court and make a statement on behalf of their clients, and then state to the Court than if they do not believe what they have said they can go out and investigate the matter. The Court then porceeds to investigate, most generally in the absence of both parties. Such investigations are provided for in the Code of Civil Procedure. [4] A glaring example of this was the trial of a Chinese in the Chinese District Court in Nantao, Shanghai. In that case the Court held that certain testimony offered to be given by a witness would not be necessary because the Magistrate himself had investigated the matter. [5]

A civil suit in a Chinese Court is instituted by the filing of a petition and the issuance of summons. The summons usually recites that the defendant must appear and answer the petition within a certain number of days. If he answers the petition the case is set for trial and comes on in due course. If judgment is rendered against the defendant he is required to put up a post-judgment bond, which is is usually called "man and money security". If he is unable to supply this security he goes to jail until the judgment is paid. The jails and houses of detention in which litigants and judgment debtors are detained are generally filthy, loathsome and unsanitary holes. These places are well described in an article which appeared in the North China Daily News on January 26, 1923, as follows:

> "At the present time, large numbers of people are detained for indefinite periods in connexion with disputes about land mortgages and old debts. Hard times give the occasion for demanding old forgotten debts of two or three generations ago, and when no living man can possibly know whether the liability was ever incurred, or how many times the matter may previously have been settled, judgment goes to the possessor of the most 'face'. Hence for every debtor in these Chinese Bridewells there is an adversary possessed of the requisite amount of 'face', hoping to extract the uttermost farthing."

Arrest for debt has been abolished in all Christian countries for many pears. It never existed in the United States except in cases of fraud, and even in those cases the plaintiff is generally required to put up bond usually double the amount of his claim before he can have the defendant arrested. In Christian countries a defendant cannot be put in jail for failure to pay a judgment if he has no assets.

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2 China Press, February 10, 1926.

3 The Chinese Supreme Court Decisions, translated by F. T. Cheng published by the Commission on Extraterritoriality.

4 See Code of Civil Procedure, translated by the Commission on Extraterritoriality, Sections 337 and 351.

5 See China Press, December 9, 1922. Heading of this article reads: "Magistrate Tu Turns Detective in Tong Trial; Rules Out Evidence."

Not only can he not be put in jail but in most countries he is allowed certain exemptions.

In criminal cases China has the Procurator System, which is undoubtedly the most vicious system of administering criminal law which has ever been in existence. Such a system is bad enough even when administered by fair and impartial officers. A defendant in a criminal case is brought before the Procurator on a summons or warrant. [6] He is then examined by the Procurator. [7] He is not entitled to refuse to testify, but must be examined. He may be detained for examination for a period of two months, which period may be extended upon application to the Court. [8] If the offense is one which provides for punishment in a degree less than the third degree bail must be granted as a matter of right. If it is an offense which is punishable from the first to the third degree bail may be allowed by the Court as a matter of discretion. [9] Men have often been held without bail for months while their conduct was being investigated. After the investigation, if there is sufficient evidence, the defendant is put on trial. Defendants are quite often kept in custody for months before they are even allowed a trial. Such procedure is absolutely incompatible with Western ideas of justice.

China Bar Undeveloped

In the sixth place, China has no class of men from which it may draw its judges. The bar is as yet undeveloped. There are no good law schools conducted by Chinese, and very few trained jurists. Most of the men who have been trained in law have studied abroad, and these are so few and far between that if called upon by the Government to serve in an official capacity they are genearlly made judges of the Supreme Court or connected with the Department of Justice. Furthermore, the compensation paid by China to its judges is so small as not to interest a well educated and competent man. The salary of the president of a local tribunal is not less than $100 nor more than $260 per month. The salary of an ordinary judge of a local court is not more than $160 nor less than $100 per month. The salary of a president of a district court, appointed by the President of China, is not more than $600 nor less than $220 per month. The salary of an ordinary district judge appointed by the President upon recommendation is not more than $260 nor less than $100 per month. The president of provincial high courts obtains a salary of not more than $600 nor less than $260 per month. The President of the Supreme Court at Peking gets $1,000 per month, while the judges of that Court obtain a salary of about $400 per month. These salaries are much less than the salaries paid to judges by other countries. For instance, a District Judge of a Federal Court in the United States receives a salary of $7,500, United States currency, per year, being about $1,500, U. S. currency, more than the President of the Supreme Court at Peking gets. The salary of a Judge of the Circuit Court of Appeals is $8,500, U. S. currency, of a Judge of the Supreme Court $14,500, U. S. currency. The Lord High Chancellor in England receives a salary amounting to $50,000, U. S. currency, per year, and the Lord Chief Justice a salary amounting to $40,000, U. S. currency, per year. A practitioner of law in China can make so much more than a judge would make that very few learned men are attracted to these positions. The meagre salaries offered, even when paid, are quite often insufficient to defray living expenses. At the time of this writing, the Judges of the Chinese Supreme Court at Peking have gone on a strike because they have not been paid for the last three months. [10]

It is a notorious fact that China is at the present time heavily in debt, and is seeking to obtain further loans upon the already overmortgaged Customs revenues. It is to be seriously doubted whether or not China can pay to her judicial officers the small salaries to which they are entitled. This naturally leads to corruption among the judiciary, and makes the charm of silver influence decisions. A very sad case was that of a Judge of the Chinese District Court at Shanghai who absconded after having embezzled the sum of $40,000. Later on he confessed.

Closely allied to the question of extraterritoriality is the rendition of the International Mixed Court at Shanghai. This Court was first established in 1868 as a result of efforts of Sir Harry Parkes. The Court originally sat at the British Consulate, and was presided over by a Chinese official of the rank of Subprefect appointed by the Chinese Government to try all civil cases arising between Chinese citizens residing in the International Settlement of Shanghai. The trial of mixed canses was watched by foreign assessors from the principal Consulates in the interests of justice. In criminal cases foreign assessors sat to watch on behalf of the Municipal Council, which played the role of prosecutor. In 1868 the Yang King Peng mixed Court Regulations were drawn up to cover all the legal cases arising within the Settlement. On the outbreak of the Revolution the Manchu Magistrate who presided over the Mixed Court left his post, and the administration of justice in the Mixed court ceased for the time being. On November 16, 1911, the Consular Body at Shanghai found it necessary to take immediate measures with a view to a continuance of administration of justice to Chinese in the Settlement.

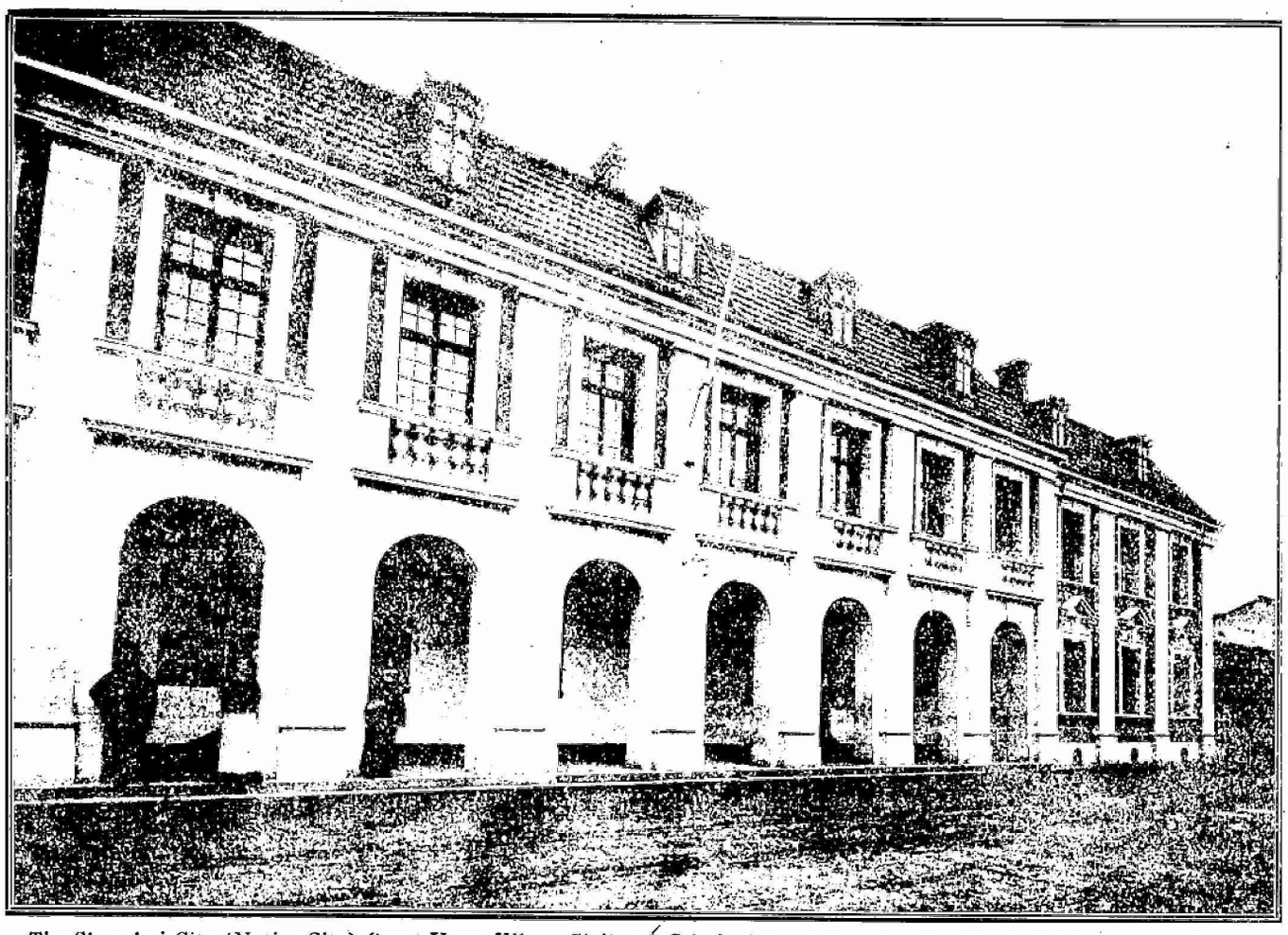
An Outline of Chinese Civil Law, by Robert T. Bryan, Jr., page 7.

This Court has been a constant source of friction between the Chinese authorities and foreign Powers, the Chinese claiming that it should be rendered back to them in accordance with the Treaties. The foreign authorities, however, have claimed that it should not be rendered back until the Chinese show themselves capable of administering Justice within the Settlement. There have been many scurrilous attacks made by the Chinese upon the Court. Most of these attacks are not supported by any facts. Ex-Minister Tung Kan in an article in the *Law Weekly Review* dated June 8, 1924, among other things said:

> "Legal procedure should be simple and the parties should be summoned to face the facts in all judicial matters. Now the Mixed Court ordered that litigations should be entrusted to foreign lawyers, a practice which incurs expenses beyond the financial capacity of the ordinary individual, and under such a practice, the true facts can hardly be revealed.
>
> All laws should be published for the benefit of the public. Every civilized country is doing this, and any law which is not being promulgated has no effect. Now the Shanghai Mixed Court has no definite system of law, and whenever a case comes up for trial, the judges usually try it according to their own fancy. There are a few regulations drafted by foreign consuls, but these rules are usually retroactive.
>
> The appellate system is common to the judiciary of every nation; whenever, a party to a litigation is not satisfied with the decision of a court, he can appeal to a higher court for rehearing or for review. Now the Mixed Court has only one trial, and has no appellate system, thus takes away the right of appeal from the parties.

6 Sections 4765 and 4766 Chinese Code of Criminal Procedure.
7 Sections 67 to 73 Chinese Code of Criminal Procedure.
8 See Code of Criminal Procedure, Section 80.
9 Sections 51 and 74 Chinese Code of Criminal Procedure. The third degree is three to five years.

10 China Press, February 10, 1026.



The Shanghai City (Native City) Court House Where Civil and Criminal Cases Occuring Outside the Settlements are Tried

It is certainly a great shame to us to allow such a half-breed institution to exist on our soil. It is even a greater shame to the Powers, which generally claim law and order as their shibboleth, yet whose consuls knowingly allow such an institution to exist under their flags."

None of the charges made in the Minister's attack are supported by fact, except that there is no Appeal Court. The Court, however, is very liberal in granting re-hearings in doubtful cases. All persons, however, will agree that there should be an Appeal Court to review the decisions of the Mixed Court.

Prior to the Court being taken over by the Consular Body many abuses were committed by the Chinese authorities in charge of the Court. For instance, judgments in foreign civil cases were most difficult to enforce; Chinese officials of the Court, including runners, Magistrates and Taotais, extorted bribes and acted accordingly; the Secretary of the Court kept an office in Foochow Road for the purpose of arranging bribes for Magistrates and other officials. He was murdered for receiving bribes from both parties to an action. In one case a Chinese who was illegally arrested in the Settlement by runners of the Native City Magistrate was bambooed until the bones of his legs were exposed because he sought the protection of the Settlement authorities; Mixed Court orders placed in the hands of native runners were used for the purpose of extortion; sentences of imprisonment were disregarded—some prisoners were released before the expiration of their terms, others detained for a longer time than they had been sentenced; guarantors of no substance were accepted by the Magistrates to guarantee enormous obligations; paupers and coolies were paid to substitute for influential persons detained in civil actions; and the Court was constantly subjected to interference by high officials, guilds, Chambers of Commerce and individuals.

Since the Consular Body has taken over the Court, however, its administration has steadily improved, regardless of the critical invectives that have been hurled by the Chinese against it and its officers. A large number of Chinese, both peaceful citizens and political offenders, have come to Shanghai where they know their property and lives will not be in danger without due process of law. In spite of the many attempts of the Chinese to take the control of the Court away from the Consular Body, the rank and file of Chinese business men much prefer to be tried before the Mixed Court than before the Chinese Courts in the Native City. In the Settlement the procurator System in force in Chinese territory does not exist. Defendants are entitled to counsel, who may examine and cross-examine witnesses in their behalf. Although the decisions of the Court have been violently criticized at times, yet, nevertheless, the Chinese feel that they will obtain a fair trial in the Settlement.

A few of the improvements in the Court since it was taken over by the Consular Body are: Civil and criminal processes are handled by the Municipal police under the direction of the Consular Body; the corrupt runners have been eliminated; the civil cells and female wards are properly controlled by the Consular Body through the Municipal Police; interference with the Court by high Chinese officials, guilds and commercial bodies has been entirely eliminated;

(*Continued on page 61*)

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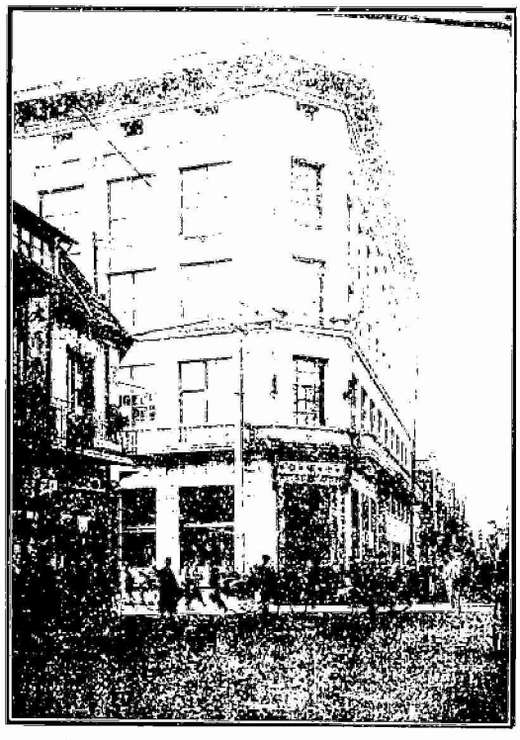

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申報

On April 30, 1872, this first page of the SHUN PAO was printed

24 Hankow Road. . . . . Shanghai China

Extraterritoriality and the Mixed Court at Shanghai

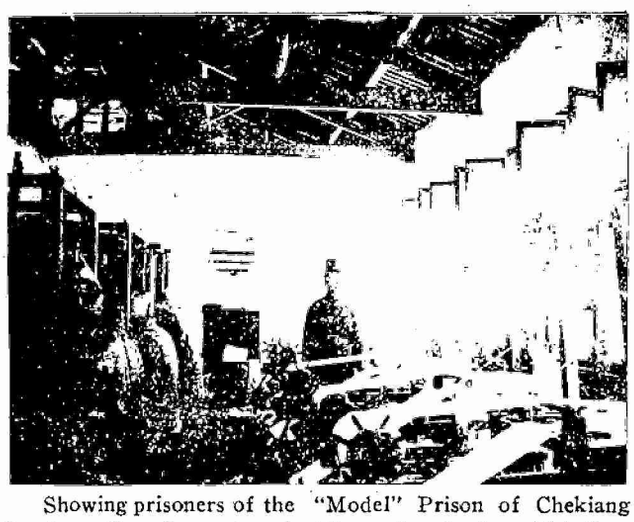
(*Continued from page 59*)

the finances of the Court are honestly controlled and administered by the Consular Body through the Municipal Council; extraditicn of Chinese from the Settlement to the interior is only allowed upon the showing of a prima facie case; the Magistrates are well paid, and receive their salaries regularly; the Chief Magistrate receives a salary larger than the Chief Justice of the Supreme Court at Peking; the Junior Magistrate receives a salary as large as a Judge of a Chinese High or Provincial Court.

To abolish extraterritoriality and the International Mixed Court without qualification would be disastrous to both foreigners and Chinese. It is admitted that the present system of extraterritoriality has its abuses. No legal system is perfect, and no Court is so good as not to be open to criticism. Conditions at the present time, however, are much better than they were prior to the granting of extraterritoriality. To abolish extraterritoriality and the Mixed Court would bring back all of the old abuses, all of the ancient miscarriages of justice, together with the bribery and extortion which formerly existed. The Foreign Powers have agreed to relinquish extraterritoriality as soon as China is ready for it. There can be no doubt whatsoever that at the present time she is not ready. In order, however, to assist China to have extraterritoriality abolished the writer presumes to suggest the following:

(1) That the Mixed Court in Shanghai be abolished; (2) that extraterritoriality in Shanghai and vicinity be abolished; (3) that a special tribunal, including District and Appellate Courts, be estabilised at Shanghai and presided over by an equal number of foreign and Chinese Judges; (4) the Chinese law be applied in this Court except in cases involving domestic relations or estates of decedents, which should be governed by the laws of the praticular national before the Court; and (5) that the Judges be paid adequate salaries, which shall be guaranteed by the Chinese Government.

The Court as thus established could, if satisfactory, gradually be handed over to the Chinese and the foreign judges eliminated. If the system in Shanghai and vicinity is satisfactory it could be extended to other places, and eventually over the whole of China.



Showing prisoners of the "Model" Prison of Chekiang Province, Hangchow, at work at the various trades which they are taught.

The International Mixed Court Is A Chinese Tribunal

(*Continued from page 15*)

United States, July, 1844, 1858; France, Oct., 1844; Norway and Sweden, March, 1847; Russia, 1858; Germany, 1861; Denmark, July, 1863; The Netherlands, October, 1863; Spain, October, 1864; Belgium, November, 1865; Italy, October, 1866; Austria-Hungary, September, 1869; Peru, June, 1874; Brazil, October 1881; Portugal, December, 1887; Japan, July, 1896; Mexico, December, 1899; Sweden, May, 1908; and Switzerland, July, 1918.

The German treaty was abolished by a Presidental Proclamation of August 14, 1917, making a declaration of war against Germany and Austria-Hungary and by the treaty of May 20, 1921. The same Presidential Proclamation also abrogated China's treaty with Austria-Hungary. The Mexican treaty was denounced by the Mexican Government on November 11, 1920. At the present time of speaking the Russians only enjoy their extraterritorial rights in theory but not for practical purposes being in the position of a non-treaty foreigner subject to the jurisdiction of the Mixed Court in view of a mandate issued by the President of the Chinese Republic which suspended the recognition of the Russian minister and consuls in China on September 23, 1920.

Reviewing the pacts which I have mentioned above, I find that it will be sufficient for the purpose if we confine ourselves to a study of the treaties made by Great Britain, the United States and China.

Among the British treaties which do shed the most light on the subject matter we are discussing, the treaties of 1843, 1858, and 1876 rank foremost, challenging the right of the Chinese government to determine the status of its citizens and the power to exercise jurisdiction, civil and criminal over all resident within its territorial limits. Dealing with the Treaty of 1843 which is titled as the General Regulations for the British Trade at the Five Ports of Canton, Amoy, Fuchow, Ningpo and Shanghai, it is stated in Section 13 as follows:—

"If unfortunately any disputes take place of such a nature that the consul cannot arrange them amicably, then he shall request the assistance of a Chinese officer that they may together examine into the merits of the case and decide it equitably. Regarding the punishment of English criminals, the English government will enact the laws necessary to attain that end, and the Consul will be empowered to put them in force; and regarding the punishment of Chinese criminals, these will be tried and punished by their own laws, in the way provided for by the correspondence which took place at Nanking after the concluding of the peace."

The motive of this particular treaty was to secure for Great Britain extraterritorial rights in China for the benefit of her citizens by means of regulating their life in conformity with their own laws and customs as regard criminal jurisdiction. One portion of Section 13 which I have quoted above was rather vague, but most probably, it was the plan of the British government to secure a firmer foothold in China, by framing it in such a vague form, so that it might be interpreted in favor of its apparent extraterritorial right to take jurisdiction in civil matters over Chinese citizens, if the latter were involved in any dispute with its subjects. This particular clause was again reiterated in Article 17 of the

(*Continued on page 69*)

Some Cases from the Interior

(*Continued from page 50*)

"The magistrate did most of the talking assisted now and then by his two prosecuting attorneys. Apparently the prisoner had no attorney and had to rely on his own mental powers, which, due to the torture was suffering, were reduced to almost nil. When a point was proved on him the "bambooer" would administer 100 lashes upon the prisoner's bare back in such rapid succession that it was almost impossible to count them. At the same time the two assistants on either side would twist his arms.

"Often during these times of increased torture he would seemingly swoon and loose consciousness. Many times he feigned a swoon trying to arouse pity in the heart of the magistrate. At times when he actually swooned the torture would be eased enough to allow him to regain consciousness so as to proceed with the trial. Finally the man kidnapped was brought in and he identified all three prisoners as the men who kidnapped him. At this juncture torture was administered in such a thorough fashion that the poor man could do nothing but admit that he was guilty of the charge for which he was accused and incriminated several others in order to ease his own suffering. When the trial was concluded and the prisoner removed from the "third-degree" machine he was unable to walk and it was some time before circulation could be restored to his legs. They seemed paralyzed. One of the attendants turned to our doctor and said, "Tomorrow morning these three men will be beheaded," illustrating the removal of the head with a knife accompanied by a very realistic gurgling sound.

"Such is the administration of justice and manner of court procedure in the Hofei magistrate's court. Certainly it would be a most remarkable man who would not under a third degree such as this one be willing to admit any charge brought against him. The foregoing cases could be duplicated in dozens of other cases. After visiting courts of this and other interior cities I wonder if they have any knowledge of the laws (written ones I mean) of this Republic. What usually happens in lawsuits and other than criminal cases is for the magistrates to find out the local customs of dealing with such cases and defer any decision until the last cent has been squeezed out of one or both parties. The old Chinese proverb, "He that enters into the yamen shall not emerge until he had paid his last cent", is true in the absolute in the local yamen.

"As to the fine system of codified laws about which we hear so much of late, the local hsien has not been under their beneficient influence. The Chinese code seems to be excellent but we here in this hsien know very little of it thru the local courts. Cases are usually established and settled on the basis of ancient local customs. If the magistrate happens to be a just man his tenure of office is short; if on the other hand he can be influenced by a financial consideration to misdirect justice his office is longer. If the magistrate tries to enforce the local customs as regards law and order to the letter, the leading families see that he departs for other fields of labor. We need a new type of man, one impregnated with the principles of honesty and justice, fearless to stand four square to every wind that blows. Alas! they are too few.

"It should be clearly remembered that the courts observed in the port cities and Peking are not the courts of interior China.

PROCEEDURE IN THE LAW COURTS IN NANKING, KIANGSU PROVINCE.

"Law cases are divided into civil or criminal suits. The civil suits are known as "ming ssu" and the criminal suits are called "hsing ssu". The proceedure in both cases is somewhat different, so we will take up that of the civil case first.

Civil Suit

There are four grades of civil courts. The first of these is the "ts'u chi t'ing",—the "first grade court". Then comes the "ti fang t'ing" or the "local court", then the "kao teng t'ing or the High Court of Justice, in Soochow, and, finally, the "ta li yuan" or the Supreme Court, in Peking.

All cases dealing with money where not more than $1000.00 are involved are handled in the "ts'u chi t'ing". One judge presides and there is one recorder. This court is also known as the "Chien i t'ing" or "the court of easy cases". The decision of this court is known as "ti i shen" or "the first judgment". The decision, in writing, is given both the plaintiff and the defendant. If the case is appealed, it goes to the "ti fang t'ing" or the "local court".

In the "ti fang t'ing" three judges handle each case. One of these men acts as presiding judge and the other two serve as jurymen. Of these other two one must be the judge of the case in the lower court. The decision is in the hands of the presiding judge and the juryman who, up to that time, has not been connected with the case. The decision of this court is known as "ti er shen" or "the second judgment". Appealed cases go to the "kao teng t'ing". Cases involving more than $1000. are handled for the first trial in this court.

The appeal of a case from the "ti fang t'ing" must be sent, in writing, by the appelant and the judge of the local court to the "Kao teng t'ing," in Soochow, and must include all the evidence of the first and second "judgments", in case the case was first handled in the lowest court, and the decision of the two lower courts. Within three weeks notice is sent to the appelant that the case is to be retried and both parties then go to Soochow. Since all the witnesses in the case cannot go to Soochow, the new decision is made on the petition for the re-trial and the evidence in the earlier trials. This is called "pien mien p'an chueh", a "decision on the testimony of one side". If the judge detects a faulty legal interpretation in the earlier decision or if there is an error in the petition, the judge sends the case back to the 'ti fand t'ing". In case nothing of this sort is detected, the "kao tend t'ing" handles the case. This makes the third trial and the decision of this court must be carried out. No case can be tried more than three times. In case the person against whom the case has gone fails to comply, the police can step in and force him to carry out the decision. This is known as the "chih hsing" or the "execution of the Judgement". If, before the case is finished, the plaintiff is afraid the defendant will run away he asks the court to force the man to put up bail, or to find a guarantor or to seal up his home. This is known as the "chia chih hsing" or the "false execution of judgment".

As indicated above, cases involving sums of $1000. go direct to the "ti fang t'ing". When this is the first trial of the case there is usually one judge only. If, however, this judge thinks that the case is too important for him to handle alone he can ask for two others to assist him. If the case is an appealed case there would be three judges handling the case,

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Extraterritoriality—Its Origin, History and Present Status

(*Continued from page 14*)

Powers Granted Extraterritorial Rights

After 1844 extraterritorial rights were granted to seventeen powers in addition to Great Britain and the United States.

Austria-Hungary	Germany	Netherlands	Russia
Belgium	Italy	Norway	Spain
Brazil	Japan	Peru	Sweden
Denmark	Mexico	Portugal	Switzerland
France			

All powers enjoying extraterritorial rights are known as treaty powers and the others as non-treaty powers. All provisions regarding extraterritorial rights which China has made with any country have become automatically applicable to all of the treaty powers by virtue of the most-favored nation clause.

During the war the extraterritorial rights of German and Austrian subjects was rescinded, and similar action was taken in the case of Russian subjects when the Czar's government was overthrown. Germany formally renounced all claim to extraterritorial rights in the treaty of May 20, 1921. Such rights were similarly renounced on behalf of Russia by the Soviet Government in the treaty of May 31, 1924.

Germany, Russia and Austria now are all non-treaty powers and as such are dependent on the Chinese courts. It is too early to make broad statements as to the treatment which the nationals of these countries have received since their extraterritorial rights were abolished. This will furnish one of the most fruitful sources of investigation for the present commission.

Legal System under Extraterritoriality

The extraterritorial system in practice produces the complicated system of justice which is summarized below.

1. Cases in which no foreigners are involved are tried in Chinese courts by Chinese law.

2. Cases between two or more nationals of the same treaty power are tried in the courts of that power and the law applied is that of the power concerned. The Chinese police have the power of arresting foreigners but they must promptly turn them over to the national representatives for trial.

3. Cases between nationals of different treaty powers are determined, not by Chinese courts, but by the authorities and laws of the states concerned, according to agreements between the states.

4. Controversies between nationals of non-treaty powers and nationals of treaty powers in which the latter are defendants, are determined by the authorities of the treaty powers. In cases where the nationals of a non-treaty power are defendants, jurisdiction is in the Chinese courts. Cases between the nationals of non-treaty powers or cases in which they appear either as plaintiffs or complainants against Chinese defendants, are settled in Chinese trubunals under Chinese law.

5. Cases between Chinese and nationals of treaty powers are determined by the tribunals of the defendant and the law of his country is applied.

The courts in which Chinese offenders are tried upon complaint of aggrieved foreigners are called mixed courts. They are territorial courts presided

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over by Chinese magistrates who possess, at least in theory, complete jurisdiction over all persons within their districts — natives as well as foreigners who are not exempt by treaty. In these courts Chinese laws are applied. Appeals from these courts may be taken usually to the Chinese prefect of the district sitting with the consul of the foreign plaintiff. If further disagreement ensues, the case goes to the Chinese foreign office and the chief diplomatic officer of the plaintiff's nationality for final settlement.

International Mixed Court at Shanghai

The most important court of the mixed courts is the International Mixed Court of Shanghai which has been said to be the busiest court in the world. Up to 1911, this was a purely Chinese court, functioning in the international settlement in Shanghai, having jurisdiction over Chinese defendants and administering Chinese law. No appeals could be taken from the decisions of this court. Each consul was allotted his day when he could appear as assessor on behalf of his country. In the emergency of the revolution of 1911 this court was taken over by the foreign consuls in Shanghai. This was an emergency measure and it was intended that the court should be turned back to China after the emergency had passed. This has never been done and is a cause for bitter complaint on the part of China. The Chinese demanded its rendition in their note of July 24 last.

China's Protest Against Extraterritoriality

When extraterritorial rights were first granted to foreign powers eighty years ago they were not particularly irks me to China for there were only a few foreigners in the country in those days and, moreover, the concessions originally were applicable only to the five ports of Canton, Shanghai, Amoy, Foochow and Ningpo.

By the beginning of the twentieth century, however, it had become abundantly evident that China had granted a far greater derogation of her sovereignty than had been realized at the time the concessions were made, and the whole system of foreign courts functioning in China became increasingly irritating to her national pride. General dissatisfaction prevailed and Chinese officials made many complaints of laxity in punishing offenders.

Early Promises to China

As early as 1902 Great Britain promised in the MACKAY Treaty to give up her extraterritorial rights as soon as the Chinese laws had been sufficiently improved to warrant such an action. Article XV of the treaty between China and the United States of 1903 read:

> "The Government of China having expressed a strong desire to reform its judicial system and bring it into accord with that of western nations, the United States agrees to relinquish her extraterritorial rights when satisfied that the state of the Chinese laws, the arrangements for their administration, and other considerations warrant her in doing so."

Japan made similar promises the same year, and Sweden in 1908. Little disposition to carry out these promises was shown by the Powers, however, during the first two decades of the present century.

At the Peace Conference at Paris, China made a strong plea to be released from her unequal treaties but no action was taken. This plea was renewed more insistently at the Washington Conference, and finally in the fourteen demands issued last July.

Chinese Legal Reforms

Meanwhile, the Chinese Government, in order to meet the requirements of legal reform laid down by the Powers, made an effort to model a new judicial system along the lines of the German and Japanes codes which seemed best adapted to Chinese instituton and customs. Since 1904, five codes of law have been partially prepared, or put into force.

1. Civil Code, still in course of revision.
1. Criminal Code, in force since 1912.
3. Code of Civil Procedure, Promulgated.
4. Code of Criminal Procedure, Promulgated.
5. Commercial Code, part of which has been put into force.

These codes are everything that could be desired from a theoretical point of view. In practice there have been many obstacles to their success. In the first place, there had never existed in China before their promulgation an independent judiciary. The administrative and the judicial branches had been one. This meant that there were no judges as such available to carry out the new codes. It has been necessary to build up from the beginning a new race of judges and attorneys trained in the new codes modeled on western law. This growth has been retarded and impeded by the political disturbances which have shaken China during most of this period. Since the overthrow of the Empire in 1911 and the constitution of the Republic there has been no year of real peace. The result has been that the central government has been able to establish modern Chinese courts in the important ports but has made little progress in the interior.

The provincial governors are especially opposed to these legal reforms which deprive them of much of their power and lay many corrupt administrative practices open to investigation and redress. The present plan of the central government is to extend the modern courts as rapidly as possible into the interior. Foreign powers can obviously be of great assistance in accomplishing this both by their advice from a technical point of view and by the encouragement they can give by unanimously promising the progressive abolition of extraterritoriality.

Legal Reforms By Powers

While the Powers have never felt that the legal reforms undertaken by Chinese government justified them in giving up their own national courts, both Great Britain and the United States have made serious efforts to remedy the outstanding abuses connected with the earlier consular courts. In 1904 Great Britain established "His Brittanic Majesty's Supreme Court for China" to supplement the consular courts. In 1906, the United States created the United States District Court for China. The consular courts were retained to function in minor cases.

The American district court was authorized to hold sessions at irregular intervals in the consulates at Shanghai, Canton, Tientsin and Hankow. Sessions must be held at least once a year in each city. The judge must be an American lawyer of good standing and experience appointed by the President of the United States for ten years. Provision is also made for a district attorney, a marshal and a clerk. It is provided that appeals may be carried to the United States Circuit Court of Appeals of the Ninth Judicial District and thence to the Supreme Court of the United States under the same rules that apply to other American courts.

The creation of these high courts did much to increase British and American prestige in China but they have not fully lived up to expectation as they suffer from many of the disadvantages which are inherent in the extraterritorial system.

Basis of Objection to Chinese System

The reasons the old Chinese courts and laws were unacceptable to foreigners may be conveniently summarized as follows:

1. Severity and cruelty of punishments—Death by slicing, decapitation and strangulation. Transportation for life, often combined with penal servitude. Whipping with the bamboo—wearing the cangue or square wooden frame around the neck. It is probable that the severest of these practices were very seldom employed but their very existence in the body of the law made foreigners unwilling to take any chances and strengthened their insistence upon special rights.

2. Bad conditions prevailing in Chinese prisons. The prisons were filled with disease, especially skin diseases.

3. The judicial system did not function independently but as a part of the administration. There was much bribery and corruption.

4. Torture for purposes of extorting testimony.

5. The so-called doctrine of responsibility whereby the family was sometimes held responsible for the acts of its members. This had probably gone almost out of use before 1842.

6. Anti-foreign feeling in general. This was partly due to the fact that a large percentage of the foreigners who visited China in the early days were adventurers and men of low standards who went there merely for exploitation, showing little consideration for the Chinese or for their laws.

The Chinese Government has now practically done away in theory with all these abuses. Strangulation alone remains for capital punishment. Transportation has been abolished. Fortyone prisons in accord with modern standards have been built and are in use. Five legal codes have been prepared or are in the course of preparation which entirely separate the judiciary from the administrative side of government.

The Chinese Constitution of Nanking provides:

Article LI. Judges shall be independent and shall not be subject to the interference of higher officials.

Article LII. Judges, during their continuance in office, shall not have their emoluments decreased and shall not be transferred to other offices nor shall they be removed from office except when they are convicted of crimes or offenses punishable according to law by removal.

The constitution of 1912 embodies many definite judicial provisions in addition to the general separation of judicial from the administrative functions. Three grades of new courts were established, namely: district courts, high courts or courts of appeal, and the Supreme Court of Peking. These are supplemented by a series of procurators of three corresponding grades. Other reforms consisted in the complete separation of civil and criminal cases, the publicity of all trials and judgments rendered, and a system of legal counsel.

While torture has been abolished, a secret preliminary examination is still allowed. There is no provision for writs of habeas corpus. Jury trial, which was tentatively adopted, was soon abandoned. No provision is made for cross examination. In spite of these remaining defects, the state of the Chinese laws may now be said to be almost satisfactory from a theoretical point of view. It remains for the Chinese Government to complete and perfect the codes which it has already begun, and then to take nationwide measures to put them into force.

Reasons Against Extraterritoriality

The arguments against extraterrtoriality may be divided into those which made it objectionable to the Chinese and those which make it disadvantageous to the foreigner. The Chinese arguments are summarized below.

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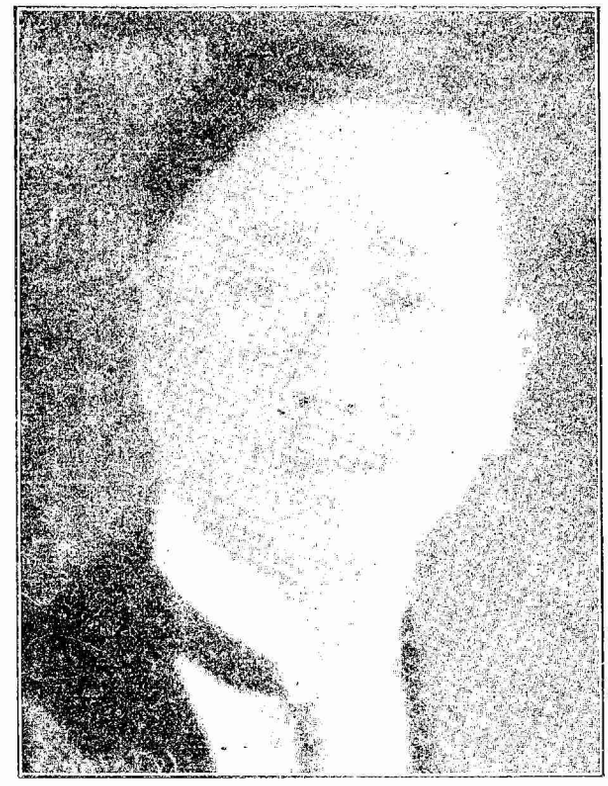
VIEWS ON EXTRATERRITORIALITY



Dr. Sao-ke Alfred Sze

A statement by the Chinese Minister to the United States

"The Commission on Extraterritoriality authorized at the Washington Conference in February, 1922, was to have met three months following the close of the Conference. Since China has been improperly blamed for the postponement of the first session of the Commission until January, 1926, it is of interest to state the essential facts.

"In April, 1922, after conversations on the subject with the State Department at Washington, the American Government sent me an official note stating in effect that in order to cooperate in and expedite the work of the Commission it was the purpose of the American Government to have translations made of all the codes of Chinese law and procedure and to get together various statistical information relative to Chinese judicial administration. In view of the time required for this work the American Government inquired whether it would be agreeable to China to have the meeting postponed until the fall of 1923.

"Pursuant to this agreement, the Chinese Government in May, 1923, gave formal notice to the other Powers that China was ready to have the Commission meet in Peking on November 1, 1923. America agreed favorably to this proposal, but informed my Government that "certain Powers did not consider it feasible to begin the work at that time." The United States then suggested that the first meeting be held on November 1, 1924, to which China again assented. This proposal, however, also came to naught, because China was informed that a certain Power, France, refused to cooperate on account of the

(*Continued on Page 67*)

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Dr. Sze's Statement on Extraterritorialty

(*Continued from page 65*)

so-called 'Gold Franc' question, something wholly extraneous to the matter under discussion, had developed in the relations of France and China.

In March, 1924, China again requested the United States Government to approach the other Powers to agree upon a definite date for the meeting of the Commission, but was informed by the State Department that there was little liklihood of a favorable result at that time.

"The matter of calling the Commission thus rested at that point until following the May 30 incident of 1925, when definite action was taken to organize the Commission.

"For nearly a century now, the Chinese people have labored under the fiscal and jurisdictional limitations upon their freedom of action limitations which weaken the powers and efficiency of their government, lowers the respect and authority of that government in the eyes of those who should support it with full feelings of loyalty and regard, and which, with reference to many matters, gives the alien residents in China rights and immunities with the Chinese themselves are not permitted to enjoy. At the Washington Conference the Powers adopted a treaty, the first two principles of which are:

"(1) To respect the sovereignty, the independence, and the territorial integrity of China; and

"(2) To provide the fullest and most unembarassed opportunity to China to develop and maintain for herself an effective and stable government.

"China is today watching with great interest to see what substantive contents will be given by the Powers to these two comprehensive commitments on their part. She is, of course, extremely anxious that while she is passing through the transition stage between the abolition of the centuries' old monarchy and the firm establishment of a republican form of government, that advantage shall not be taken by any Power to increase, in an extra-legal manner, its influence or control within the territory of the Republic of China... China asks that affirmative steps be taken to restore to her the jurisdictional and fiscal rights which should never have been taken from her. She expects to be accorded all the rights which belong to her as a sovereign nation, so that henceforth she will be treated as an equal among equals in the Family of Nations."

Extraterritoriality—Its Origin, History and Status

(*Continued from page 65*)

1. It is a derogation of China's sovereignty and is looked upon by the Chinese as a humiliation.
2. The multiplicity of courts in one and the same locality. A perplexing legal situation has been the result.
3. Disadvantages arise from the uncertainty of the law.
4. Courts are often hundreds of miles away and it is difficult to transport witnesses and evidence.
5. Foreigners, under the cover of extraterritoriality, claim immunity from local Chinese taxes.
6. Often a strong bias on part of foreign officials in favor of their own countrymen.
7. Chinese claiming foreign citizenship have protection of foreign courts. This is especially annoying to the Chinese in the case of Chinamen coming from Formosa, Korea and the Philippines.
8. The practice of certain Chinese of putting their concerns in foreign names in order to have protection of foreign courts.
9. The fundamental fact that Chinese ideas of justice are so different from those of foreigners.
10. Indifference in carrying out properly the extraterritorial system is inherent in the system itself because the public sentiment usually responsible for the enforcement of laws is absent when the laws applied and the courts applying them are foreign and beyond domestic control.

It is probable that a majority of the foreigners in China would vote for extraterritoriality unless absolutely satisfactory guarantees of justice and security could be given them. Nevertheless there are many reasons which make extraterritoriality unpopular even among foreigners.

1. The impossibility or unwillingness of the Chinese Government to open up the country further for trade and residence.
2. The troubles connected with keeping up the courts and the large amount of irksome work devolving on the consuls.
3. The difficulty of finding officials who are highly trained lawyers.
4. The difficulties in interpreting the law to suit local conditions.
5. The fact that extraterritorial courts have only a personal jurisdiction. For instance, if a Chinaman sues a British subject the British court has no control over the Chinaman even if he perjures himself or if he commits contempt of court.

An indication of the American attitude toward extraterritoriality is to be found in the discussions which took place September 17-20 at the Johns Hopkins Conference on China. About 200 Americans of varying opinions and professions, but all with a more or less intimate knowledge of the Chinese question, assembled at Baltimore in order to discuss particularly the questions of extraterritoriality and customs autonomy. After very heated arguments a resolution was passed by a four-fifths vote as follows: "Generally speaking we are agreed that extraterritoriality should be abolished and that customs autonomy should be given to China." Furthermore the resolution called for vigorous leadership by the United States in China, and independent action, if necessary. This resolution was passed in spite of violent opposition by the minority.

Extraterritoriality in Other Countries

Extraterritoriality has been applied in many oriental countries, some of which have been highly civilized for many centuries. Outside of China, the two most important have been Japan and Turkey. Both of these countries have thrown off the yoke, Japan between 1894 and 1899, and Turkey in 1923.

The reasons for extraterritoriality in Turkey were very different from those in China and Japan. As early as 1535, Turkey at the height of her power granted extraterritorial rights to French subjects.

VIEWS ON EXTRATERRITORIALITY

Mr. Y. S. Ziar
謝永森律師

"The abolition of extraterritoriality in China will tend to a simplification of the application of the law", is the opinion of Mr. Ziar, a prominent lawyer of Shanghai and former chairman of the Chinese Advisory Committee to the Shanghai Municipal Council.

"The foreigners seem to be reluctant to have their consular rights abolished for fear they would be ill-treated by the Chinese in the Chinese Courts. I do not believe that this fear is well-founded as the Germans and the Russians, who have given up their special privileges, have had no difficulties in the courts, at least to my own knowledge.

"I have a number of cases involving different nationalities in which the parties have to file petitions with the different consulates, on account of their extraterritorial rights, thus necessitating heavy expenses and loss of time.

"Abolition of extraterritoriality could be easily accomplished. The best method would be for the Chinese government to tax the imported goods of extraterritorial powers so heavily—even 100 or 200 percent on the value of the goods—that such goods would be driven from China's markets and at the same time give to those traders in other imported goods a special tax so that the lost trade would swing to such other nations as had given up their special rights. If this policy were to be the maintained for only one year, all those nations now fighting to retain their special privileges would negotiate with the Chinese government to give up their extraterritorial rights. After all, the foreigners are in China *for trade*. If there is no trade, of what use are the extraterritorial rights to them?"

At that time this concession was not considered a derogation of sovereignty but was due rather to the fact that Mohammedan law and religion are united. The Mohammedans considered that, as the Christians were without the pale of of religion, they were also without the pale of the law.

Abolition of Turkish Capitulations

Under modern conditions, however, the Turks strongly objected to the continuance of this practice and it formed one of the main points of dispute at the two Lausanne conferences. The Lausanne Treaty signed July 24, 1923, provides in Article 28 as follows:

> "Each of the High Contracting Parties accepts, in so far as it is concerned, the complete abolition of the capitulations (extraterritoriality) in Turkey in every respect."

This arrangement includes foreign legal counsellors, to be selected from a list prepared by the Permanent Court of International Justice from among jurists, nationals of countries which did not take part in the World War. These legal counsellors are to serve as Turkish officials under the Turkish Ministry of Justice, some in Constantinople and others in Smyrna. Their duties are as follows:

1. To take part in the work of the legislative commissions.
2. To observe the operation of the Turkish courts and to forward such reports as deemed to be necessary to the Minister of Justice in order to ensure the strict observance of the law.
3. To receive all complaints between natives and aliens.

The treaty between the United States and Turkey, which has been pending since August 6, 1925, similarly provides for the termination of the extraterritorial rights of the United States in Turkey.

Extraterritoriality in Japan

In Japan extraterritoriality was abolished by a series of treaties beginning with Great Britain in 1894 and ending in 1899. Japan was enabled to conclude these treaties because of the remarkable speed with which she was able to convince foreign governments of the reality and efficiency of her legal reforms.

It is improbable that China under existing conditions will be able to make the impressive progress with her legal reforms which enabled Japan to throw off the extraterritorial burden with such rapidity. It is also improbable that the Powers will be willing to consent to complete abolition of their rights in China under conditions as favorable as those granted to the Turks.

An intermediate course seems clearly indicated whereby abolition will take place in the measure that progress is made in the actual carrying out of the reforms which are either already instituted or which are imminent. The assistance of foreign legal experts will be essential and it is not improbable that for many years foreign judges will be employed to preside as Chinese officials over the modern Chinese courts. In this way the Chinese would gain the benefit of having their new western laws interpreted by men to whom they are the natural expression of justice, while losing that stigma which must inevitably be attached to the system of extraterritoriality.

The International Mixed Court Is A Chinese Tribunal

(*Continued from page 61*)

British Treaty of Tientsin, June 26, 1858, which is as follows:—

"If disputes take place of such a nature that the Consul cannot arrange them amicably, then he shall request the assistance of the Chinese authorities, that they may together examine into the merits of the case and decide it equitably." Can it be logically concluded that none of the articles or provisions of the above mentioned treaties provided in any from or manner foreign supervision over the Mixed Court which is a Chinese tribunal? The Chinese claim that the only privilege which was apparently conceded to the foreigner, was the right of being present to watch proceedings. This conclusion was hotly contested by the British, who for the purpose of their argument set up Article 17 of the British Treaty of Tientsin, June 26, 1858 as the backbone of their contention, which article I have quoted above. This article was certainly vague, and as I particularly mentioned in the earlier part of this discussion, the British did not hesitate in taking advantage of the ambiguity.

The Chefoo Convention of 1876

However, in the year 1876, a convention was held at Chefoo, resulting in a treaty signed by Great Britain and China, which solved the problem caused by Article 17 of the British Treaty of 1858, in the following terms provided in Section 2, headed "Official intercoures," that—"The British Treaty of 1858, Article 16, lays down that Chinese subjects who may be guilty of any criminal act towards British subjects shall be arrested and punished by Chinese authorities according to the laws of China" and further: "In order to secure fulfillment of its Treaty obligations, the British Government has established a Supreme Court at Shanghai, with a special code of rules, which it is now about to revise; the Chinese Government has established a Mixed Court at Shanghai, but the officer presiding over it, either from lack of power, or dread of unpopularity, constantly fails to enforce his judgment." "It is now understood that the Tsungli Yamen will write a circular to the Legations, inviting foreign representatives at once to consider with the Tsungli Yamen, the measures needed for the more effective administration of justice at the ports open to trade." Article 3 provides that "It is agreed that, whenever a crime is committed affecting the person or property of a British subject, whether in the interior or in the open ports, the British Minister shall be free to send officers to the spot to be present at the investigations." "To the prevention of misunderstanding on this point, Sir Thomas Wade will write a note to the above effect, to which the Tsungli Yamen will reply, affirming that this is the course of proceeding to be adhered to for the time to come." "It is further understood that, so long as the laws of the two countries differ from each other, there can be but one principle to guide judicial proceedings in mixed cases in China, namely that the case is tried by the official of the Plaintiff's nationality merely attending to watch the proceedings in the interests of justice. If the officer so attending be dissatisfied with the proceedings, it will be in his power to protest against them in detail. The law administered will be the law of the nationality of the officer trying the case. This is the meaning of the words hui t'ung, indicating combined action in judicial proceedings in Article 16 of the treaty of Tientsin; and this is the course to be respectively followed by the officers of either nationality." The meaning of the word together (hui t'ung) was carefully defined in the foregoing treaty, thus classifying the apparent misundertanding existing between the British and the Chinese. "Official of the plaintiff's nationality" in the foregoing treaty means a foreign consul of his representative who is entitled to sit on the bench of the Mixed Court. Although this Treaty omits any reference to Article 17 of the British Treaty of 1858, it could be easily followed that it should be given an interpretation similar to that applied to Article 16 which I have quoted above. We must finally conclude that the treaties between Great Britain and China which I have elaborated upon, grant to its assessors only the right "to watch the proceedings" in the interest of justice. In my opinion, in order that this conclusion be successfully upturned, it would be necessary that the claimant should be able to invoke an express provision to that effect, the omission of which would seem to imply the denial of the right to take an active part in the proceedings which I have mentioned heretofore.

In reference to the treaties made between the United States and China concerning extraterritorial privileges very little need be said, for it seems that the Americans have always adopted a passive policy and never did aspire to take an active part in the proceedings of the Mixed Court. Their present participation in assuming an active part in the proceedings of the Mixed Court is apparently due to circumstances, they having merely followed the footsteps of the British, without, however, asserting any right by treaty or verbal understanding. It is contended that Article 16 of the American Treaty of Wangia, 1844, provides stipulations similar to those of the British General Trade Regulations of 1843, which reads as follows—

"Citizens of the United States may seek redress in law; and on suitable representation being made to the Chinese local authorities through the consul, they will cause due examination in the premises, and take all proper steps to compel satisfaction." To my knowledge the Americans have never insisted nor taken unto themselves the interpretation which the British sought to give to their treaty. If my opinion proves to be unfounded, the method by which the British contention was disposed of may also be applied to this particular issue.

Foreign Supervision Not Authorized

In conslusion, I find that there are no treaties in existence up to the present date, authorizing foreign supervision over any Chinese tribunal, such as the Mixed Court which was a Chinese tribunal till Nov. 1911 and which should remain to be so even to-day.

There is a further question which might be worded in the following fashion, "Is foreign supervision over the Mixed Court proper under the theory that even though China's autonomous right of controlling her own people is undeniable, unless denied by treaty, in view of the difficulty to have it thus maintained under the actual conditions existing in the foreign settlements?" My answer would be replied in the affirmative and negative, therefore conditional. It would be perfectly proper for foreigners to supervise the Mixed Court if their motive and efforts were directed to reform and improve the judicial system for the benefit of the Chinese people. This supervision, however, is to be worked in conjunction with judicial officers assigned by the Chinese government. It seems that the efforts of the foreigners were exerted in vain in supervising the Mixed Court. Not only have they failed in improving the judicial system for the benefit of the Chinese people, but they have also been responsible for the certain evils which have constantly hampered the cause of justice. It might be further

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The International Mixed Court Is A Chinese Tribunal

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mentioned that the Chinese magistrates who occupy the bench of the Mixed Court at present are not judicial officers delegated by the Chinese government to act in such capacity. They were appointed by the Municipal Council, and are paid by that organ. Some of the outstanding evils might be enumerated in the following manner.

Evils of Present System

The most important violation of sovereignty as expressed by the Chinese delegates at the Peace Conference in Versailles, 1918, in reference to the Mixed Court was that warrants issued and judgments delivered by Chinese Courts outside the foreign settlements were not able to be executed without first obtaining the approval of the consul of the State in whose favor the concession has been granted; and also that of the foreign assessor being allowed to take part in the trial or decision of cases wherein Chinese citizens are alone concerned. It might be mentioned that there is not one representative of the Chinese, government sitting on the bench at the Mixed Court at present.

One of the greatest evils emanating from the present system exercised by the Mixed Court in view of the fact that it does not take jurisdiction over subjects of countries with extraterritorial rights is the unscrupulous and illegal advantage taken by one Chinese to do injustice to another, thus effectually concealing himself behind foreign protection. Those Chinese who desire this advantage merely register at a foreign consulate, and after certain "red tape" measures are satisfied, they are certified as subjects of that particular country, and thereby entitled to its jurisdiction.

Another evil lies in the fact some of the assessors who preside at the Mixed Court are permitted to attend the same court as counsel for a party to a suit, even during the term of their asssessorship. That particular assessser would undoubtedly be prejudiced against you, if you irritated him any fashion, justly or wrongly, in the case which brought the assessor and you together as opponent counsel.

An evil which proves to be a bitter pill to all of those who have experienced the irony hand of the Mixed Court is the method resorted to by the assessor and magistrate in laying down a verdict. In my opinion, the Mixed Court is neither a court of law nor a court of equity according to its present status. Western legal principles and Chinese law have seldom formed the fundation of any verdict rendered by the Mixed Court. Neither are these judges guided by precedents. This fact was clearly set out in the case of Hay-Achun and Ayaw, February 2, 1867, before Assessor or Co-Judge C. Alabaster and Magistrate Chen which runs as follows:—

Specific Case Cited

"The Mixed Court as a Chinese Court could not be influenced by English law maxims, aud that to introduce anything like the technicality and formality of procedure which appertained to English Courts would lead to injustice, as the Mixed Court, unguided by any written code or precedent, could pretend only to decide each case upon its own merits." In other words, it is quite evident that the men who compose the bench of the Mixed Court are allowed the widest of scope to either indulge in building their decisions on sound basis of logic or to satisfy their whims by resorting to sources of unfertile imagination.

In questioning the calibre of those men who occupy the bench at the Mixed Court, we may point out another evil which has caused a great deal of comment. Some of the men have had extensive and intensive legal training which undoubtedly qualifies them to act as judicial officers, while others, especially consuls or representative of the consuls of smaller countries who are priviliged to act as assessors at the Mixed Court were never trained at any of the law schools to assume such an important judicial function. These consuls were only trained to act as business representatives of their respective countries. The lack of such a fundamental and thorough training has resulted in no sparce jeering of some of the verdicts rendered at the Mixed Court. It is well known no appeal lies from this Court regardless of its merit which goes further to show the injustice which has permeated the soundness of the present Mixed Court system. This rule of "No appeal" was first stated in a report in 1907 by the magistrate to the Taotai.

Shyster Lawyers in Shanghai

A word or two must be said in reference to lawyers who practise at the Mixed Court. Competent lawyers are a boone to the bench, for they assist these judicial officers in deciding a case within the shortest period of time, thus saving the court's energy and serving to the public immediate justice. There are many shyster lawyers, however, now existent in Shanghai. It seems that many of the local law office interpreters journey to Japan to fetch that highly desired sheep-skin (Diploma) certifying their ability as qualified graduates of a Law School, thus enabling them to register with the Ministry of Justice at Peking as applicants for admission to the Chinese bar. These so-called lawyers hinder the progress of the court, and are the tools of criminals and blackmailers. More rigid rules should be adopted by the Mixed Court in registering applicants for admission to practise.

The foregoing conditions and many other discrepancies in the present administration of the Mixed Court which I have committed to mention have prompted me in forming an answer to the issue in controversy to the following effect,—"That foreign supervision as it is now administered at the Mixed Court should not be sanctioned or approved of by any civilized nation."

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The Experiences of Germans Under Chinese Laws

(*Continued from page 18*)

On the other hand the mistake of carrying warfare and postwar hatred into Asiatic soil would not even have been so far reaching in its final results would it not have been for the argumentations with which the deprivation of Germany of her Treaty rights with China was put into legal shape. The historical course of affairs was somewhat on the following lines. In 1915 England wanted China to enter the war. Japan resisted, not being quite sure what she could get out of China once this country would have a decent military organization. Besides Japan was not sure whether, after all, Germany was going to loose the war, so that Japan was working in the Far East merely as a German pacemaker. By 1917 the political outlook had materially changed. America's entry into the war adding new moral stimulents to the cause of the allies. In China the Anfu government was then in charge of the Peking Administration, which meant that Japan's influence was unlimited. After pouring into the channels of this Anfu party 170,000,000 yen as a bribe to ensure Japan's secretly secured international permission for permanent occupation of Tsingtau and Shantung (these 170 millions called the Nishihara loans, play today a big part in the Peking customs Tariff negotiations) China was thought fit to fight side by side with the allies. The spoil offered consisted of the former German concessions in Shantung, although every power except China knew that these concessions were already promised to Japan. But something at least had to be done when the Chinese labor battalions came back from Flanders. Was there any scheme more convincing than to deprive the "Huns" of the few non-territorial rights which besides the land concessions were stipulated in the treaties of the prewartime? That was the reason why first Germany, followed by the other central Powers, lost their extrality. There can be no doubt that this biggest mistake ever committed during the time of foreign intercourse with China is largely due to Mr. Lloyd George's lack of historical knowledge and imagination. For it cannot be pointed out clearly enough that when extrality was first granted to a foreign power in China (Russia) this was not a special right, unilaterally granted by the celestial government to a stronger power. On the contrary by forcing alien subjects to apply to their own consuls for jurisdiction the government of China wanted to demonstrate that these foreigners were not worthy of the jurisdiction of the son of Heavens. Now came Mr. Lloyd George and gave to the whole question a new tenor, as if only privileged powers had the right to insist upon the privilege of consular jurisdiction. It may be added that Russian diplomacy made very cleverly the best out of it, by giving up Russian extraterritoriality after there was no more earthly chance of her keeping it. So we see today two groups of powers in China: one, the allies, the neutrals and a couple of small South American republics still enjoying extrality and a couple of "number two" nations without these rights.

Meanwhile and especially after the affair of May 30 the question of extrality became again an issue of world wide importance. China, taking every advantage of the British attitude in 1919 and of the stipulations of the Washington agreement, demanded urgent abolition of all extraterritorial rights of the first group. The powers found themselves caught in the same trap which they laid for Germany. And for all the future concessions to China in the extrality question they will have to depend, for the reasons pointed out in the beginning of this article, on the German experience with Chinese laws.

It may be said that after all these experiences are not too bad. Of course I want it to be understood that there are no first hand reports available. The different German Chambers of Commerce do record and supervise every case which comes to their knowledge, in which German and Chinese rights are involved. But on account of Germany's still very unsettled international relations they are forced to settle all Sino-German discrepencies in a friendly way with China rather than to appeal each and every time to the so-called consciences of the powers. But the mere fact that the modern Chinese codes are formed after the example of the Austrian codes gives certain guaranties that the law itself is interpreted in a convenient way. Of course a law code itself is not sufficient for enforcing the law and the fact alone that the Chinese judges in the interior depend for their livelihood upon the monthly salaries which they draw out of the treasury of the respective provincial governments, makes them depend on the

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The Future of Extraterritoriality In China

(*Continued from page 18*)

is readily appreciated by all of us, and we sincerely hope that the present inquiry will enable us to indicate how soon and in what manner this great end may be attained. We enter upon our task with the best of intentions, and in a spirit of amity, impartiality and cooperation. I am certain that ... ... we shall be able to prepare a fair and constructive report."

The Chinese people are looking for positive results from the work of this Commission with regard to the abolition of extraterritoriality in China. In the meanwhile, however, it will not be amiss to emphasize the fact that, inasmuch as many practices have grown up under the aegis of extraterritoriality, having no connection whatever with the right of the foreigner to be tried by his own consul, — as, e. g., exemption from certain government taxes and duties, such extraneous growths should be abolished as a first step in the program of relinquishment. The Chinese urge that whatever does not pertain to consular jurisdiction should be removed, and it is hoped that this phase of the complicated question of extraterritoriality will receive its due share in the report of the Commission.

We need not pause to forecast the findings or the recommendations of the Commission, but there can be no doubt whatsoever, in the minds of intelligent students of history, that the extraterritorial anomaly will ere long make its exit from China as it has disappeared from Japan, Siam and Turkey. If there are those in the Treaty Ports who regret to see the disappearance of their extraterritorial rights, they may find compensation in the thought that the benefits which will accrue from the removal of the anomaly will outweigh by far the transient advantages of the present system. Sooner or later the extraterritorial regime will have to go, and if, to some, the exit should appear to be too soon, they may find solace in the fact that with its disappearance another great barrier will have been surmounted in the promotion of complete understanding between China and her neighbors. Sir Robert Hart, years ago, made the following forecast:

"Restore jurisdiction (to the Chinese) and the feeling of responsibility to protect as well as the appreciation of (foreign) intercourse will at once move up to a higher plane."

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The Courts and the Administration of Justice in Kwangtung Since the Republic

(Continued from page 19)

Legal counsels practising in the regular courts of Kwangtung are first registered or commissioned by the Ministry of Justice of China according to its regulations governing qualification and character before being enrolled by the High Court of Justice in Canton. The lawyers themselves have a Bar Association to regulate their relations to their clients and to one another. These regulations, approved of by the High Court, together with others prescribed by law and the Ministry, appear to be working satisfactorily in this Province. Persons requiring legal aid in Court but unable to engage one are usually provided for by appointments of the Court upon public expenses, but the members of the Bar in Canton, by general understanding, usually take a case of this character by turn and also relieve the Government of the nominal fee attached. In certain classes of criminal charges for which sentence to be imposed may be heavy, the law requires that a defendant may not be arraigned without his first being properly advised by a legal counsel. In the Canton Bar Association today are found lawyers trained in leading American, European, Japanese, as well as Canton and Peking law schools. For a time there was a charge that certain lawyers and judges, all schoolmates in a certain college once, had formed a "trust" to deal in sale of justice, but dishonorable judges and dishonest lawyers might be found anywhere.

The last few years in Kwangtung saw frequent civil wars and revolutions. Notwithstanding this the Courts of the Province has never been seriously interfered with. To insure the rights of the people to have three trials and two appeals in all cases, the révolutionary governments in Canton had a Supreme Court for South China as early as 1919 to facilitate those who could not appeal to Peking from not only Kwangtung but also Yunnan, Kweichow, Kwangtung and Szechuan Provinces. Among those who had presided over this Court as Chief Justice were Mr. George Hsu Chien, at one time acting Minister of Justice of the Peking Government. and Dr. Chao S. Bok, a graduate of Columbia University in New York. The present acting Chief Justic (February, 1926) is Dr. Wu Chao-chu (C. C. Wu) son of the late Dr. Wu Ting-fang, the well-know Chinese Ex-Minister at Washington and a former Premier of China. Dr. C. C. Wu is a English returned student and a barrister-at-law by profession. The Procurator-General for South China in the Supreme Court is now also a British trained barrister-at-law, Mr. Loo Hing-yuan, A. M., Oxford University. Mr. Loo also concurrently Chief Justice of the Kwangtung Supreme High Court and Presiding Judge of this Special Court of the Kuomintang having exclusive jurisdiction over certain politico-military classes.

On account of frequent disturbances and changes of administrations and regimes in Kwangtung, the Courts, while seldom interfered with, have encountered no little difficulty and had to suffer a great deal of limitations necessitated by extraordinary actions following a civil war.

The Kwangtung Courts are expected to function regardless of change in civil administration, it being supposed to be more or less independent from politics and other influence. In practice, however, they have for a time been allotted only whatever power not usurped by military or civil officials existing at the same time.

Except what is known as the "third degree" often resorted to by detectives in their quarters to

extort confession and the often striking of persons to be arrested by constables, all without authority from their superiors and prohibited by law, corporeal punishment is not used in trials or a deterrent to crime in the Kwangtung Courts, every sentence being either in the form of a fine or a term in prison. There is no distinction in simple confinement and hard labor in Kwangtung prisons. Sometimes light offenders are made to perform work in street cleaning and the like, and those who occupy themselves in making match-boxes and other services have their wages credited to them and paid on release. Capital punishment is executed by strangling the guilty in case of murder when not with a political offense, otherwise shooting is the most common.

Kwangtung prisons, except the Reformatory in Nam Shek Tau, near the Macao Forts in Canton, where printing, shoe-making, and a few other works are provided by the prison authorities for the benefit of the inmates and medical attendance is regular, cannot be said to be satisfactory. The more dangerous criminals are kept in solitary confinement, but the system in general is one of congregating a number of inmates in one cell. Regulations require medical attention to the sick in prison, but lack of funds often denies the unfortunate this privilege. Rations appear to be meagre, and the allowance does not exceed ten cents *per capita* daily.

Prison administration in a locality is under the direct supervision of the District Procurator who is, of course, in turn responsible to his superior or the Commission or Ministry of Justice. The warden of a prison is sometimes an assistant procurator also. He is usually a graduate from the School for Police Officers and Prison Warden which at one time flourished in Canton.

Salaries of Judicial Officials

The remuneration for judicial officials in Kwangtung is regulated in accordance with a scale for civil officials. The latest scale of salaries runs into six grades. The first class officials receive $800 a month; second, from $600 to $750; third, $375 to $525; fourth, $180 to $300; fifth, $60 to $120; and sixth, $15 to $45. The High Court Chief Justice and his Associates in Kwangtung formerly were and now still should be belonging to the third grade in salary, with a maximum of $525 monthly, besides certain allowances. Chief clerks and other court officers receive not more than $300 monthly in most cases. Court clerks and bailliffs, in addition to salary, sometimes are given certain fees for the execution of judgments in civil cases.

The income of the Kwangtung Courts other than government appropriations consists of fines imposed on offenders and proceed from court costs and the sale of documents and petition forms.

The right of a citizen to petition, however, is limited technically to a person able to buy a petition form and affix a duty stamp on the document. In practice, of course, this does not lead to any miscarriage or denial of justice, as the forms and stamp duty seldom cost more than 50 cents. Costs for filing civil cases very in accordance with amounts involved.

To obtain legibility in petitions and other documents the Courts at one time required that all should be written by a certified public writer, but the abuse made by the latter coupled with public opposition soon modified the requirement. Now one who copies or drafts the legal document should countersign with the principals to the document as a witness or notary. The authorized public notary in Kwangtung, however, is a regularly registered member of the Bar.

Much of the regular and legitimate functions of Courts in Kwangtung, unfortunately have been legislated out of their sphere or usurped by military and civil departments of the Revolutionary Government now dominating Canton and other districts of Kwangtung.

Brigadange and piracy, village feuds, gambling and opium-smoking, and such cases requiring speedy and exceptional actions, do not come within the jurisdiction of the Courts unless referred to it by the military and civil officials.

Martial-law has been a common thing in Canton and vicinity for some time, and it has operated not only on enlisted men but also on civilians. How many innocent Chinese have been executed as spies or political opponents only God knows.

In addition to military tyranny, since the good days of the late Dr. Sun Yat-sen, hundreds of new taxes have been created by the executive departments of the Government and these civil officials usurped the right to prosecute and judge at the same time. There have numerous cases in which not only revenue and financial but also health and public works officials have detained persons for violation of departmental or municipal regulations or by-laws. Sanitary, health, building and other regulations in Canton these days are not enforced by Courts but by the departments concerned.

Land reclamation, sometimes involving a section of the community and the property of hundreds of citizens at a time, is not at present allowed by the Kuomintang Government to go through the Courts, although it is not so reckless as it was at the time of the mayoralty of Sun Fo, son of the late Dr. Sun, 1922-1924, when millions of dollars worth of property belonging to the people was confiscated without due process of law but simply through the information of informers who were paid a commission for every report made and the decision of a financial commissioner charged with the duty of selling all confiscated lands.

Other Court Restrictions

Besides the denial to the Courts of the necessary and proper privilege and functions to protect the property rights of the people, neither are they given the duty of defending the freedom of speech and religion nor accorded the privilege of protecting the life as guaranteed by the Constitution of the Republic and favored by the late Dr. Sun Yat-sen, whose theme when living was a government of, by, and for the people. Since the coming of Dr. Sun's adherents into power in Kwangtung, the last invasion being the early part of 1923 and the summer of 1917, a number of newspapers have been confiscated and several newspapermen have been either executed or exiled without due process of law. The Courts have never been even consulted in regard to these cases, notwithstanding the existence of the Constitutions and a press law governing such a case. During the latter part of 1923 and early 1924, scores of temples, monasteries and nunneries were taken over by the followers of Dr. Sun and returned to their trustees and the priests only upon payment of a purchasing fee.

In cases in which large fines may be exacted but limited by the maximun penalty provided by law, Dr. Sun's followers have not been hesitating to create special courts and enact special laws for the occasion. In 1922, Ching Tien-tow, who was managing-director of the Bank of Kwangtung, a Government Bank, was accused of misappropriation of funds and could at most be charged of grand larceny only; but when

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The Experiences of Germans Under Chinese Law

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benevolence and the goodwill of the provincial authorities. But be it understood that this is only a theoretical remark, for there has not one single case come to our knowledge where bribes have been offered or accepted by Chinese judges. It seems that in legal matters the desire of the Chinese to make a good job far overwhelms the inborn Chinese instinct for squeeze.

More serious of course is the aspect in criminal matters. Just lately there was a case pending in Soochow where the Chinese patient of a German doctor died in the course of the treatment. There was no inspection of the body held on modern lines, the only authority consulted being the old Chinese gravedigger on whose verdict the German doctor was convicted. Yet not wanting to establish a precedent the Chinese judge somewhat naively asked the accused, whether he would not be willing to pay "a little gratification to the parents of the deceased, as he was rich and these people poor." Of course also this whole matter is only a trifle. But as especially in medical matters the powers have large responsibilities in China, legal practice in these things has to be firmly established before we can call the whole system satisfactory. As a very large majority come to China only with long year contracts, there are happily so far no experiences made on fradulent cases, theft or robbery.

As far as Shanghai is concerned we cannot very well call the Mixed Court a Chinese institution and the experiences which the Germans have in this law court do not fall within the scope of this article. It may be sufficient to mention that by mutual arrangement German cases are not brought up before the assessor of the day, but before one of the assessors of Switzerland, Norway or the Netherlands. That the Chinese magistrates are employed by the Consular Body and not appointed by the Chinese government forms one of the reasons for the Chinese and German objections against the legality of this Court.

I do not believe this is the place to argue the German attitude with regards to extraterritorial questions. Diplomacy working on the old—all over the world biblical lines of "give and take" seems to believe in Germany that, after she lost her consular jurisdiction, diplomatic efforts should see that the other powers lose the same rights. If the private opinion of the writer, who by means of his extended newspaper work represents a large body of German readers, is of some interest to Americans, he may mention, that he himself considers as one of the reasons for the so far satisfying experiences of Germans with Chinese jurisdiction the fact that some of the big powers still enjoy their extraterritoriality. Firstly, it is for the Chinese a matter of "face saving" not to give any just cause for complaint. For how can they expect the "first class nations" to give up their rights if this does'nt work with the "second class nations"? Secondly, as shown in the case of Mr. Scherer in Mukden, a German citizen convicted to 15 years hard labor by the Chinese and pardoned through the efforts of the extraterritorial consuls of this city, there rests still such a big power with the Treaty consuls as to prevent any outspoken legal outrage against a citizen of a nonextraterritorial country. We Germans are, so to say, weeds in the shadow of the big trees, not getting as much sun as they, but enjoying more the fertility of the ground. The scheme as worked out by Dr. Schurmann for the gradual abolition of extrality has some striking features. But from a continental point of view, which after all likes to interweave politics with morals, the fact has been overlooked that there are to be found today extraterritorial powers in China who do not actually, by reasons of their commercial and numerical importance, deserve these rights. The latest census of foreigners in China gives i.a. 2 Chileans, 4 Peruvian, 4 Argentinians and 27 Brasilians, not stating how many among the latter are born Brasilians and how many are only Chinese with a bought passport of this country. Reports of the municipal police referring to opium cases, fraudulent bankrupcy and arm smuggling on the other hand seem to suggest, that these nationalities are taking very unfair advantage of their extraterritorial rights. If it is not within the power of the League of Nations to fundamentally change the attitude of these smaller nations with regard to their behavior in China the gradual abolition of extrality, to my liking should start with these parasites of international respect for Chinese soverignty. And then by and by, but only after much by and by, we may consider the question of the big powers giving up their extraterritoriality. But of course, this is my own private opinion.

Mr. A.D.A. de Kat Angelino, Commissioner from the Netherlands on the Extraterritoriality Commission

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The Courts and the Administration of Justice in Kwangtung Since the Republic

(Continued from page 73)

he was caught in 1923 and tried in 1924, a special "court" was convened for the purpose, and he was found guilty and sentenced to death. He was subsequently pardoned by the late Dr. Sun Yat-sen. No written record, so far, however, could substantiate the general belief of that time that Mr. Ching was less a multimillionaire after than before his arrest and trial.

Cases Exceptional, Claim Kuomintang

That the general contention of the Kuomintang that this and other exceptional cases were extraordinary ones under martial-law, which was to say no law, may be noted here to give the other side of the case.

For some time, therefore, the Kwangtung Courts were able to handle only cases in which the Government was not directly interested or thought too troublesome to bother itself with. Aside from civil cases in while none of the parties to the suit cares to employ a militarist or a powerful politician to use his influence or power of intimidation, criminal cases which the police sometimes find it costly to prosecute, such as kidnapping of women by women, murder of a civilian by another civilian, and the like come before the Courts often uninvited.

In criminal cases, the District Procuratorate is supposed to have full jurisdiction in the preliminary hearings. A procurator is also a coroner over unusual deaths. Upon the Procuratorate finding a case with sufficient evidence leading to a conviction, charge has to be filed with the District Court and the defendant is then given the privilege of consulting his legal adviser in preparation for trial. So far the system of trial by jury has not yet been introduced into the Kwangtung Courts.

Referring to the trial by jury, it may be of interest here to note that the merchants in Canton, at least, are beginning to see the value and justice in it. The merchants are now demanding that, when the Stamp Revenue Bureau hears a case alleging the violation of a regulation, it should be tried by a body in which a merchant or a number of merchants should be a member or members. The Canton Government is willing to have one unofficial and three official members in such a body, but the merchants say "No."

In civil cases, seldom are they handled without lawyers; all interests cannot very well be unprotected. Usually a case is seldom decided without at least one or two hearings and judgment is rendered in default only upon non-appearance of either party at three successive hearings after due proof of service at each has been recorded.

Judgments of the Courts in civil cases are executed by the bailliffs of the Court concerned or through district magistrates, or sometimes the trustees of a chamber of commerce, who are often instructed by the Courts to act as official receivers in liquidation proceedings.

In Kwangtung for some time the chance of a person in difficulty to have his case heard by a judicial court was considered a rare privilege. He knows that the injustice he will receive may be a delay in getting heard, as sometimes one may have to remain in jails denied of an opportunity to be tried longer than what the penalty would provide if found guilty. At the same time, he knows that his trial will be as fair as his counsel is able to see to it. Except in the Summary Court where sometimes decisions are rendered verbally, the more important decisions are written by a judge who has heard the case and counter-signed by the clerk who has recorded the trial and judgment and also by the presiding judge or principal justice of the court. As the decisions are published once they have been announced and open for review and comment by members of the Bar, sometimes for the purpose of preparing for a motion for new trial or appeal, they cannot be too unfair. It is sometimes regrettable that not very many persons outside the Courts and the Bar read these decisions. Sometimes the decisions appear to be very dry for general reading and pretty long and the public cannot be blamed for not taking as much interest in them as they should.

The Kwangtung Courts have a daily law journal circulated among the members of the Court and the Bar in Canton and districts. Calendars of every court in session, all legal notices, decisions, summons, and other information of interest to the legal profession or concerning the Courts and their personnel are found in its pages. This law daily has the monopoly of inserting all private notices which may sometimes have legal attention, such as bills of sales and other contracts, powers of attorney and the like.

Expense and Delay Hamper Justice

Generally speaking for the whole Province of Kwangtung, sometimes the Courts cannot be so popular as they should have been. There are not enough of them and the delay often causes miscarriage of justice. At one time the Canton authorities have tried to adopt the circuit system by which only four clerks were stationed in the less important towns and cities and judges, sent from Canton, were to hold courts at these different places periodically, going from one court to another in his circuit, instead of remaining permanently at any one town or city. This system of travelling judges has not proved satisfactory for one reason or another, and it may soon be abolished altogether. Some say that it costs too much time and money to bring a case before the Court. Poverty among those needing legal protection and advice and the poor mode of travel in a number of places in Kwangtung are other attributions to the still unpopularity of the Kwangtung Courts.

A majority of cases in the remote districts of Kwangtung where patriarchical form of clan or community government is still strong is disposed of in the usual Chinese idea of law and equity partly based on ancient custom and practice, and this method of justice administration is not interfered with but often supported by local officials both executive and judicial.

In rural districts of Kwangtung where municipal, town or other county or local government is not well defined or established, villages and towns still look at their ancestral temples as quarters of government and their councils of elders and gentries (educated class possessing a scholarly degree) as authority in general civic, religious, governmental, and judicial affairs. A number of villages or towns usually has its joint council or *Kuk* to which every constituent sends one or more representatives. As every village or town possesses some common property and fund together with watchmen and guard house, it has machinery to enforce peace, order, and justice.

Differences of one villager with another within the same clan are usually brought before the Village Council of Elders and Gentries through one or both parties notifying the keeper of the Temple or the

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Clerk of the Temple, who will cause a watchman or runner to distribute the bamboo strips (about 1 1/2 inches by 6 inches) calling for the Council to assemble. Each strip bears the name of the member entitled to attend the meeting and the time specified. Near the hour of meeting, the members of the Council would appear at the Ancestral Hall each handing in his strip to the Clerk who would duly register his attendance. Upon the meeting being called to order by the Clerk, parties to a suit mostly civil and misdemeanor in legal terms are asked to state their cases and, when the arguments are through with, the Elders and Gentries would openly deliberate on the facts and arguments presents and render a decision according to the findings. In crimes against the public, the village watchmen and guards and sometimes volunteers would bring cases before the Council, and in serious actions which the Council of a village does not feel safe to pass on independently, it may refer to the joint Council (Kuk) or commit it without action but with favorable or unfavorable comments to the Magistrate of the District. In districts where there is no District Court or its branch near the seat of Magistrate often assumes original jurisdiction as a Court of First Instance. In minor cases, village councils handle them very satisfactorily.

Except in civil judgments in which distribution of funds and proper accountings would usually end an action, the punishments inflicted by a village council generally consist of expulsion from the clan, deprival of one's share of the meat, from ancestral worship or sacrifice for a term of years, and confinement in the village guard house or a public beating, a form now seldom used. A Chinese attach a great deal to his share of the family meat, though it may consist of but an ounce a year. It is one's honor that counts.

Given time, peace, and opportunity, the Kwangtung Courts as they are today will easily develop themselves to a position which the Chinese Constitution intends them to assume.

Today the highest Courts in Kwangtung are presided over by men educated in the country famous for its legal institution who have passed the same examination and are possessing the same degrees and certificates of learning as those who are occupying similar positions in their own country.

Overseeing the administration of justice in Kwangtung today is a Judicial Commission of which four returned students are members: Dr. Wu Chao-chu, Mr. Loo Hing-yuan, Mr. Lo Wen-chang and Mr. George Hsu Chien. One of these is the governor of all prisons, while Dr. Wu is presiding over the South China Supreme Court and Mr. Loo, the Kwangtung High Court. Mr. Hsu Chien will eventually relieve Dr. Wu of acting Chief Justice, upon his return from Peking, where Mr. Hsu was once acting Minister of Justice.

To keep officials within bounds now in Kwangtung there has been recently established a Board of Indictments to prosecute and a Court of Impeachment to try all officials accused of malpractice or corruption while in office.

With special attention against further usurpation on the part of executive officials and military power the Judicial Commission now in Kwangtung should find fewer obstacles to the development and improvement of the power of the judiciary within its jurisdiction.

Canton, June 3, 1926.

Missionaries and Governments

(*Continued from page 22*)

It is obvious that the Chinese constitutional paragraphs are not very comprehensive in their guarantees; the first one assures liberty of conscience but not of worship; the second with its phrase "on which no restriction shall be imposed except in accordance with the law" seems to imply that Parliament could pass laws imposing religious restriction. However, China will, no doubt, soon have another constitution; and if the native Christians do not want treaty protection, it is clearly their task to see to it that their next constitution embodies definite and far-reaching guarantees of religious freedom of both belief and worship. Moreover, we must remember that China has now, which was not the case when the treaties were signed, a modern Supreme Court which assumes that the country has a constitution, a supreme law of the land. In short, the "convert" clauses seem no longer necessary.

From those affecting the convert let us proceed to those affection the converter, the missionary; e.g., (1) right of propagation, (2) securing for his society land in the interior and (3) "effective protection" As to the right of propagation Chris tianity, if the *native* Christians are willing to trust China's constitution and courts for their whole religious security, there is no compelling reason why *foreign* missionaries should not trust the same for the right of propagating their religion,

The future right of foreign missionary societies to acquire in the interior land "in perpetuity" and to erect buildings thereon, it seems, should be abolished. During the seventeenth century the Roman Catholic missionaries worked in practically every province without such treaty rights; in Japan the missionaries never enjoyed such a privilege, and it is difficult to see why in China foreign workers should have such a right indefinitely. On the basis of Article III of the Sino-German Agreement of 1921 German missionaries can go wherever "the citizens of another nation are allowed to do so".[14] If this were applied to all nations, it would probably mean that foreign missionary societies could not acquire and hold land in perpetuity in places not now occupied; i.e., they would probably not be allowed to open new stations. With millions already invested in property and with hundreds of men and women at work there are few, if any convincing reasons for continuing the present treaty privilege in any form, as long as it is clearly understoon that purely native missionary societies have the constitutional right to go wherever they please.

As to property already secured China promises in the Sino-German Agreement "to give full protection" and not to sequester it "except in accordance with the generally recognized principles of international law and the provisions of laws of China;" with the significant condition "that the German government wonld treat the Chinese residents in Germany in like manner."[15] Since German missionaries, both Protestant and Roman Catholic, are working successfully and without difficulty on the basis of this Agreement, it hardly seems necessary for missionaries of other nationalities to demand more security for their property, providing there is no immediate and unconditional abolition but only revision of the rights of extraterritoriality.

When we come to persons, we find that the Sino-German Agreement promises "full protection" to the Germans working peacefully in China"; but again with the proviso that the Chinese in Germany receive reciprocal protection.[16] But after all, a missionary's most effective protection is probably the good-will of the local officials and of the people; and the Sino-German Agreement has been most successful in restoring good feeling between the Germans and the Chinese, largely no doubt, because the Agreement is based upon the principle of reciprocal privileges.

To sum up: the position here taken is that missionaries could safely agree to the abolition of their own special treaty privileges, if they are given the protection German missionaries and their property can claim, and if extraterritoriality is not immediately and unconditionally abolished but only revised. The foreign commercial interests, on the one hand, could not reasonably object to such an arrangement, and the Chinese Government, on the other, would hardly insist on giving less protection to the missionaries than to her recent enemies.

This brings us to the privilege of extraterritoriality, which the missionary and the merchant of the Treaty Powers enjoy in common. Here we are on much more difficult ground and also on one where the missionary should consult the interests of the merchant and *vice versa*. The suggestion that the missionaries might surrender extraterritoriality while the merchants be allowed to retain the same will, undoubtedly, never be sanctioned by the governments concerned. In the case of the United States, even if a treaty with such provisions were ratified by the Senate, the Supreme Court would most probably declare such a treaty in violation of the Constitution. (Cf. H. St. George Tucker "Limitations on the Treaty-Making Power;" pp. 54, 92.) In short, merchant and missionary undoubtedly, will have to stand and fall together.

Revision of some sort is bound to come; the special "convert" and missionary clauses of the treaties will probably be discarded. Whether the principle of extraterritoriality will be touched is not so certain; but it will be worth our while to explore some of the possibilities.

What China would like to see done we can learn in the Sino-German Agreement of 1921. Article III of this Agreement says that German "are placed, both their persons and properties, under the jurisdiction of the local courts; they shall respect the laws of the country wherein they reside."[17] The "Judicial Guarantee" of this Agreement reads, "Law suits of Germans in China shall be tried in the modern courts, according to the modern codes, with the right of appeal in accordance with the regular legal procedure. During the period of litigation, the assistance of German lawyers and interpreters who have been duly recognized by the court, is permitted." This assures the Germans the following:

(1) Trial in modern courts (of which China has 122)
(2) Trial on the basis of modern codes (of which there are five, partly promulgated).
(3) The right of appeal to higher courts.
(4) The right to use German lawyers.
(5) The right to use authorized interpreters.

(It should have included the right to summon

14 The Chinese Social and Political Science Review. October, 1924; 184.

15. Ibid, 188

16. The Chinese Social and Political Science Review, October, 1924: 187–188.

17. The Chinese Social and Political Science Review, October, 1924: 184.

German physicians in cases where necessary).[18]

After extended inquiries among all classes of Germans as to the working of this Agreement, the writer offers the following conclusions of the Germans themselves:

(1) *Settlement of Estates.* This has not given ground for any complaints.

(2) *Civil Suits.* The decisions rendered by the Chinese courts have on the whole been of a high order.

(3) *Criminal Cases.* The number of cases tried is to small to enable one to form a definite and final conclusion; but so far, there has been no case of serious miscarriage of justice.

Of course, there are criticisms of the Chinese judicial procedure, and these center around the following:

(1) The case of Scherer in Mukden. The accused, after having been nagged by a number of Chinese boys, struck one of them with a cane: the boy died 9 days later; and Scherer, without using a German lawyer or an interpreter, as was his right, was given a prison sentence of 7 years; on appeal, the higher court reduced the sentence to 3 years and 2 months. After having served a few months of his prison term Scherer was pardoned by the Ministry of Justice. The lower court did make some mistakes, but these were corrected by the higher court; moreover, Scherer was very foolish in not making full use of all his privileges under the Sino-German Agreement.

(2) German Physicians. Two German physicians were sued for criminal negligence in cases of death after operations. The lower courts imposed money fines on both; but in both cases, on appeal, the higher courts reversed the decisions. Of course, in some cases German physicians are as necessary as German lawyers;[19] but the Agreement does not provide for their being called., although the higher courts have at times made use of their services.

In addition to the above many point to the plight of the Russians, especially that of Ostroumoff, as proving the inefficiency of the Chinese courts. Although not a complete defence of the courts, the following ought to be said:

(1) In nearly every case affecting Russians the intrigues among the Russians themselves (Red. vs. White; White vs. Red) have played havoc with the administration of justice.

(2) The Russians have not yet worked out, in treaty form, a definite system of Judicial Guarantees as have the Germans.

It is undoubtedly too early, however, immediately to put all the Powers still enjoying the rights of extraterritoriality on the German basis. Where so many millions of money and so many thousands of lives are involved it is well to go somewhat cautiously. Again, as long as the militarists are not fully under the control of the Central Government, there lurk the following dangers:

(1) The judiciary is still in danger of being interfered with by the militarists. On December 6, 1925, Tupan Chang Tsung-chang of Shantung had Chang Chih, Chief Justice of the Shantung Higher Provincial Court, shot without trial. Such actions do not tend to create confidence.

(2) The militarists would like to burden foreign property with military taxes. In the case of a foreign mission institution of higher learning in North China the militarists, in 1925, tried to impose on the property additional military taxes that were 160 per cent, higher than the normal civilian taxes. Although the Sino-German Agreements, Article III, says the Germans "shall not pay higher imposts, taxes or contributions than the nationals" this article gives no real protection against arbitrary military taxes or forced contributions, once extraterritoriality is unconditionally abolished under present conditions.

Various suggestions, much less far-reaching than China's arrangement with Germany, have been made as to what might be done.

(1) *Professor Willoughby* suggests that (*a*) foreigners be made amenable to Chinese law; (*b*) in the lower courts, when a foreigner is tried, at least one of the presiding judges be a "foreign expert learned in the law and experienced in its administration;" (*c*) when the case is appealed to a "superior court," the majority of the judges trying the case be of foreign nationality, the number of these foreign judges to be gradually reduced. This suggestion was made before the signing of the Sino-German Agreement, and it is doubtful whether the Chinese would now be willing to accept such a system.[20]

(2) *Dr. Jacob Schurman*, former American Minister to China, advocated the following plan: (1) First Step. Foreigners are to be amenable to the new Chinese codes applied by the foreign consular courts for a certain number of years. (2) Second Step. Special Chinese courts in the chief treaty ports and commercial Centers for another space of years, in which courts foreign legal experts are to sit with Chinese judges. (3) Third Step. Complete judicial autonomy for China. Of the two, the latter seems to be the better plan, because it is much more definite. But will the Chinese accept it? As in the case of the tariff so in that of extraterritoriality, the Chinese will not accept to-day what five years ago they would have received with alacrity.[21]

(3) *Turkey.* Since the Chinese now often point to Turkey as their model, the new Turkish arrangement is of vital interest. Article 1 of the "Declaration Relating to the Administration of Justice in Turkey," signed on the same day as the Treaty of Lausanne, reads, Turkish "The Government proposes to take immediately into its service, for such period as it may consider necessary, not being less than five years, a number of European legal counsellors whom it will select from a list prepared by the Permanent Court of International Justice of The Hague from among jurists, nationals of countries which did not take part in the war of 1914-1918, and who will be engaged as Turkish officials."[22] These experts are to investigate the Turkish courts, have part in the work of the legislative commissions, hear every sort of complaint relating to the courts and to report their findings to the Minister of Justice.

Possibly, the basic idea of the third plan could be used here. If China employed similar foreign

18. Since the signing of the Agreement an arrangement has been made at Shanghai whereby a German physician from the Paulun Hospital, a German institution, will be consulted in all cases, involving Germans, calling for medical knowledge. It is expected that this arrangement will be extended to other large commercial centers with a considerable number of Germans.

Again, in Shanghai, coroners' inquests, involving Germans, have been entrusted to the Tung Chi Medical College and the Paulun Hospital with the understanding that a German physician will hold the inquests.

Cf. Ostasiatische Rundschau, September, 1924: 116: October, 1924,144

19. Ostasiatische Rundschau, September, 1924: 116–117.

20 Willoughby, Foreign Rights and Interests in China: 79-80.

21 The China Weekly Review, November 7, 1925: 227-228.

22 The Treaties of Peace: 1919-1923, II: 1044.

legal experts for a number of years, and if in addition to the duties enumerated in the Turkish system, the Chinese allowed at least one of these experts to sit as a presiding judge, together with the Chinese judge or judges, in the Higher Provincial Courts and in the Supreme Court, whenever cases involving foreigners came before sufficiently protect foreign interests. It would undoubtedly be safe after the militarists are once under the complete control of the Central Government.

To sum up: (1) The clauses relating to native "converts" are no longer needed. (2) The special privileges of the foreign missionaries can be abolished, if the Sino-German guarantees are extended to all missionaries and, for the present, the rights of extraterritoriality only revised. (3) Immediate, unconditional abolition of extraterritoriality is not feasible at present, and it does not seem safe, as yet, to put all foreigners on the footing of the Germans; but the Powers might possibly work out a compromise system, embodying features of the Turkish plan, that should afford adequate legal protection. Revision of some sort is almost certain. We may soon have to ask ourselves whether we prefer to see our extraterritorial rights reduced on the part of the foreigners by *concession* or abolished on the part of the Chinese by *abrogation*.[23]

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23 In addition to Turkey, Siam has also secured abolition of extraterritoriality. The treaty between the United States and Siam, signed December 16, 1920, provides that "citizens or subjects" of each country shall have the "liberty to enter, travel and reside in the territories of the other....submitting themselves to the laws and regulations there established." In other, words, Siamese are not excluded from the United States. and American citizens are amenable to the laws of Siam. However, "Until the promulgation and putting into force of all the Siamese Codes,....and for a period of five years thereafter, but no longer...." in certain cases suits may be transferred from the Siamese courts to the American extraterritorial courts.

Cf. Treaties, Conventions, International Acts, Protocols, and Agreements between the United States of America and Other Powers, III: 2829-2837.

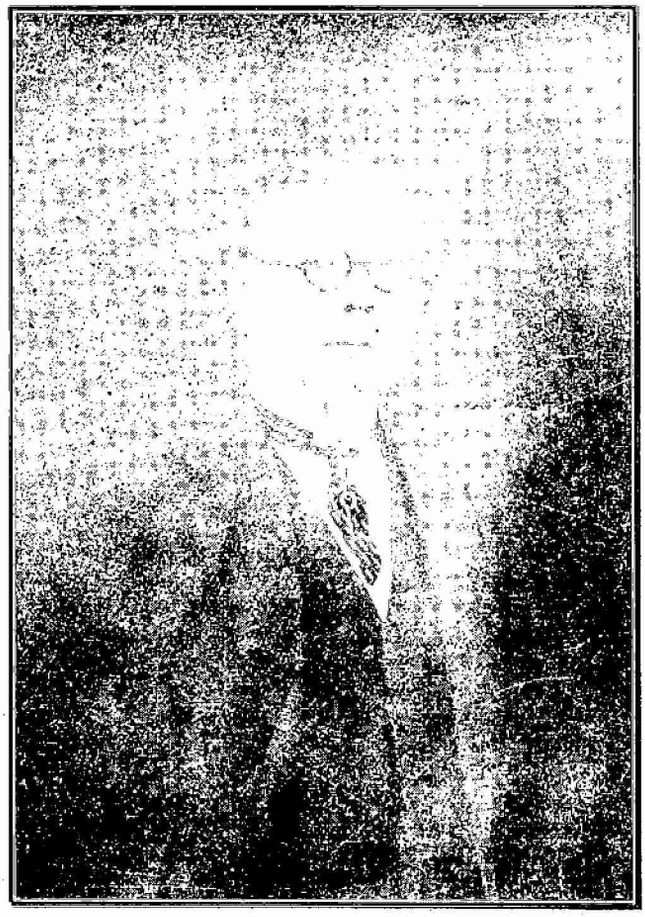
VIEWS ON EXTRATERRITORIALITY

Mr. Lo Pah-hong
Prominent Shanghai business man, delegate from Chinese Catholic Church to the Vatican

"Since I am a business man, I feel that the matter of extraterritoriality should be discussed and settled by our diplomatic and judical officials to the satisfaction of China and the other nations. I have returned from an extensive trip to America and Europe and while I did not have time to inspect the various judicial systems, I am sure that the foreign nations will be glad to assist China in the development of her courts and administration of justice. Obviously the great desire of the Chinese people is for complete independence and autonomy in the management of her affairs to the end that the Chinese Republic may occupy the position in the family of nations to which its great extent of territory, resources and great population, entitle her.

"In respect to the question of the rendition of the Mixed Court I personally think that merchants of all nationalities should stay out of court as much as possible. I would like to see a commission of business men decide disputes in accordance with the principles of business."

VIEWS ON EXTRATERRITORIALITY



Dr. W. W. Yen

Former Minister of Foreign Affairs, Acting Premier and now Premier

"The best means of averting confusion in the present situation and of relieving the population from misfortune and misery, lie without doubt in according respect to the national law but to recognize facts is of the utmost necessity..... Civil wars follow each other year after year and the populace is being subject to great misery..... if concrete measures for the development of local industry are devised and put in force, it is evident that the resuscitation of the country will soon be achieved."

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CHINA WEEKLY REVIEW

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The Chinese Courts And The Administration of Justice In The Interior of China

(Continued form page 34)

between the foreigners and natives and making it possible for the foreigners to carry on business and educational activities, from which the natives profit much more than the foreigners.

Neither the foreigners nor the natives feel that relations between the two parties will be helped out but rather hindered by the placing of a responsibility upon the Chinese that they are not ready for, and placing the foreigners in a position which may be unendurable.

The agitators for the doing away with Extraterritoriality are very much in the minority and are composed largely of immature youths who know very little of the real principals of life. They are stired to action by outside influences in the name of patriotism. The real cause of the suffering and distress of the people are the military rulers who keep them reduced to poverty and full of fear.

FROM A CITY IN NORTH EASTERN SHANTUNG

The following information was supplied by an American Missionary who stated:

"Owing to fear of retaliation on the part of the military officials in the Province, we feel it is necessary to write sparingly and guardedly on the subject of the administration of justice in this section." The information supplied is as follows:

"So far as a good ideal may be of advantage, this city has it in her tradition and history of officials. It is recorded that three hundred years ago she had an official, Chu Lao Yieh by name, who gave his life to appease the wrath of attacking hordes, and saved the city from destruction. A temple was built in his honor and a date on the calender set apart for his worship. His place in the hearts of the people is secure, and all subsequent officials have had his example to emulate. Questioning the older residents we find that there have been others on down the line who have ruled wisely and well, looking to the good of the people rather than their own, but the inference is that they have been few and far between.

"It is admitted that some wrong methods were changed with the coming in of the Manchus that, for instance, of punishing a family for the sin of one member. A father may still be apprehended and held for a time pending the capture of a son, but penalty may not be inflicted upon the father. An instance of this came to our knowledge soon after arriving in China in 1909. A little girl, daughter of an evangelist in a port city was abducted. Friends of the family wrote to us that it was thought the child had been brought interior to a village near us. A school boy from that village was given permission to go home for a visit, with suggestion to use his eyes and ears and keep his tongue. He returned the next day with news that the child was there. The county official was informed and he sent "ya Yi" out with instructions to arrest the young man who had perpetrated the crime and to bring him and his father, and the stolen child to the "Yamen" The offender, however, escaped. The father was brought in and kept sometime, but the child being secured and returned to her parents the case was not prosecuted and the father was released. Doubtless there are cases where a family is made to suffer more heavily than this. Up to the time of the revolution officials did not have a fixed salary, but extracted all they could from the

people and apportioned it as they thought best. Some were generous and made improvements, but most of them put their own interests first. There is now a fixed salary for the County official, and for subordinate officers of whom there are several, one who deals with matters of finance, one with criminal matters (any case in which blood has been drawn), and one who deals with matters between the people, disputes concerning property, and other interests. There are regular days for hearing these cases, each subordinate official passing the case up to his superior if necessary. No official prefers of deal with matters of blood, so the more serious criminal cases are passed up to the Capital of the province.

"The foreigners in this place have made it a rule to trouble the officials as little as possible and relations between the two classes have been almost uniformly pleasant. Ths tenure of office of a county official is supposed to be six years, but changes are made much more frequently than that. The sudden leaving of an official produces confusion in cases and inconvenience and injustice thus arise. We experienced this with regard to permission to put up poles for electric lights. Our neighbors were really not at all averse to granting the privilege, but sudden change of official brought about complications that were not easy to adjust. The United States has not always sent preeminently wise and good men to fill consular positions, and when we have an incumbent who is the reverse, together with a Chinese official who is unscrupulous the ends ef justice, are not easily attained.

"An interesting case come to our attention of the working of Chinese law with regard to a Chinese citizen who became a British subject and retained property rights for many years. He, a resident of this city was married at the age of twenty and left home immediately. When he had been away for about forty years, (in which time he had become a British subject and had twice in succession married a British wife, having children by each wife) he made inquiries through the British consul concerning the property which he had left here. It was found to be all intact, including the wife. Some business was transacted regarding the property, (probably the paying of taxes, etc.) and his right to it remained unquestioned. Then years later he returned with his third wife and several children and resumed his residence in the home of wife number one. To Western minds this seems a remarkable piece of property holding.

"County officials receive their appointment from the higher up powers. There is a regular rate of value attached to these positions—six thousand dollars—eight thousand and on up. After an appointment has been made there is often a lapse of months when the incumbent to be, does not take his seat. This is because he cannot furnish the required sum of money. In the mean time he may "farm out" the job to a smaller man for a smaller sum. This is a further element of confusion.

"The jail at this place is probably typical of county jails in this province, possible better than some. There are, however, five "model" prisons in other cities of this province. This prison is surrounded by a massive stone wall about fifteen feet high. The accompanying picture shows the outer entrance. It is triple locked—two Chinese locks and one foreign. It is made of boards and does not seem very strong. The square opening in the center is for communication with the keepers and convenience in passing to the prisoners The prisoners themselves are farther in behind stronger doors. Eighteen at present are in confinement here—three women and fifteen men.

"Some years ago permission was readily given to a missionary to go in and preach to the inmates on New Year's day, and it was his pleasure to make them a gift of white bread. A similar donation has just been accepted for this New Year meal.

"A lady missionary was allowed to visit the women prisoners on one occasion last Summer. She found them in quarters that were fairly neat and comfortable. They were permitted to sew or plait braid, and the income from this work was allowed for their maintenance. Indeed all prisoners are expected either to earn their food, or have it provided by their friends. When friends live near-by they bring food and hand it in to the keepers through the square hole in the door. If friends are not near enough to do this they may pay about five cents per day and the prison authorities furnish that amount of food. In case a prisoner is entirely without friends the county official provides the above sum for sustenance. There is a law prohibiting torture to extort confession of personal guilt, or testimony against another, but this evil has been practiced in recent years. The stocks are still used at night, the prisoner's neck being thus fastened and hands mancled. This they say is necessary because no keepers are expected to be on duty at nignt. The present warden, who has held the office about two years, is a man of good standing in the community. He is a member of the local Chinese Church and with his wife a regular attendant at services. The wife is in charge of the women prisioners, They are a smiling, kindly couple and one can well believe their assertion that they would gladly improve conditions in the prison if permitted to do so.

"A number of prisoners are there for complicity in opium traffic. Sad to state the mentally unbalanced are also confined in the jail, This for lack of a suitable asylum for them. A well-to-do family has for years furnished the support of a member whom they consider insane.

"The subject of bribery is admittedly a large one. That it enters tremendously into the warp and woof of Chinese life, political and civil is unquestioned. Chinese of integrity look with longing hearts to a popular vote and a clean ballot, when the wishes of the people may be expressed and heeded, but that now seems to be far in the future. Trial by jury is an ideal equally to be desired and perhaps farther off in the future.

From The Town of Tsining, Shantung

"The County Governor's Court while technically a higher court than the County Magistrate's, its functions and affairs are less. The County Governor has authority over 25 counties, governing only the District Magistrates, who still try cases in their own counties. He does not try cases, but if anyone is dissatisfied with the actions of a County Magistrate, he may accuse him to the County Governor. The Governor secures facts from the accusers and makes recommendations to the Provincial Governor at Tsinan, whose decision is final. The County Governor has 1000 soldiers locally under him for protecting the Counties in times of disturbances. He is appointed by the Civil Governor, in Tsinan, and there is no fixed term of office. Candidates can purchase the office. The County Governors as a rule, are fair and not easily influenced. Three years ago the Government at Peking decided to discontinue this office throughout China, and issued an edict to that effect, but has been unable to enforce it. I have been informed that the County Governor can be bribed by the County Magistrates, but cannot receive money from the people.

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(Shih Pao)

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"As intimated above, the County Magistrate's Court is a much busier Court than the County Governor's, because he tries all lawsuits instituted by residents of both the City and the County. There are *no lawyers* here in Tsining, so the County Magistrate hears the testimony of both sides and then passes judgment. It often takes ten days after action has been taken before the Magistrate will hear the accusation. Then after that the case may drag on for months or years. Meanwhile the principals spend much money appealing to the County Governor and the Provincial Governor at Tsinan, and whoever spends the most money gets the favorable decision. In order to institute a suit in this Court, one must pay the court runners much money before reaching the County Magistrate, and I have been informed that the County Magistrate, does not get any of *this* money. A leading Chinese citizen remarked to the writer that "Perhaps they do not pay the court runners here any more money than they do anywhere else." As a rule the Magistrate is just, but some times he is bribed and influenced by wealthy people, and receives large sums of money. The Magistrate is also appointed by the Civil Governor, and his term of office is usually for three years. This office can be purchased for $3,000 so I am informed. Cases are tried only in the afternoons, because the Magistrate drinks and gambles most of the night, and smokes opium in the mornings, hence is not ready for business until the afternoon. No doubt it is generally known that in China, contrary to the sentiment in Western countries,—"A man is guilty until he is proven innocent." They have a proverb which says: "If there is no wind the branches of the tree will not sway." Being the equivalent of the Western proverb: "Where there is smoke there must be some fire."

"Tsining has a Police Force, which is adequate enough, but almost useless, as the people do not fear them nor obey them. The wealthy people often using them to run errands, *and so forth*. Furthermore, they can only arrest the common people. They dare not arrest others. Their wages come from the merchants, and is very small, less than $20 a month, so they do not try very hard to do their duty. It is very difficult indeed to get the police or the Police Chief to take any action in matters coming under their jurisdiction.

"There is a German family, Protestant Missionaries, consisting of father, mother and two children and a trained nurse, living here in Tsining, who are treated very well by the local authorities, on equal footing with other foreigners, in fact. There are also a number of German Catholic priests and Sisters who are also well treated.

FROM TIANFU, SHANTUNG PROVINCE

The person address by the *Review* regarding the Court situation and the administration of justice in the Tianfu district, wrote as follows:

"I have undertaken to get the information which you request regarding the administration of justice and law enforcement. Our people here are so ashamed of the system that they do not want to have me write about it. They intimate that it might interfere with the friendly attitude of the people toward our Mission if I should write about the courts, etc."

In the words of a note recently received: "The delegates of the Powers who are investigating the

(*Continued on page 86*)

Some Cases from the Interior

(*Continued from page 62*)

except in the more difficult cases, when five judges would work together. If a further appeal is made, the case goes to the "ta li yuan", the Supreme Court, in Peking. This is "ti san shen", the "third judgment", and is based on the records of the previous. There is no open court and no new testimony can be introduced. In case of faulty legal interpretation in the decision of the lower court, the case is recommitted to the "kao teng t'ing".

"No appeal can be made after 20 days after the decision of the court. In provinces where the distance to the higher court is great, a petition to have the time spent in travel not counted in the 20 days can be made.

"A special office in the "ti fang t'ing" called the "Chih hsing t'ing", the "office of the execution of judgment", carries out all decisions. The first notifications of the decision can only be delivered at the man's house and not to the man himself,even if he is met with on the street. The last notification, however, can be delivered anywhere and the police of any precinct must assist in carrying out the decision, in case the loser refuses to submit to the court's ruling. Any previous cooperation on the part of the police is supposed to be of a persuasive nature only, but in this last act of enforcing the court's decision, force may be used.

Criminal Suit

"As in the case of a civil suit, here also there are courts of four grades but only three "shen" or "judgments" are possible. In lighter cases, such as minor assults, etc., the prisoner can be sentenced to not more than two months hard labor and his civil rights can not be taken away as in the case in matters of greater seriousness. The first step in a criminal suit is taken by the procurator of the Court of Procuration, who investigates the charge. If protracted investigation is necessary, the accused is released on bail. If there is a case, the Procurator prosecutes the case in the criminal court. The regulations governing appeal are much the same as in civil cases.

"The following is a brief statement of a case that came up in the court in Nanking in January 1924.

"A servant, in the employ of a foreigner, was electrocuted in the basement of the house and was found dead less than an hour after he had served dinner. Two doctors and the head of the physics department in the University of Nanking were called and they agreed absolutely conclusively that the man did not die from violence or poison and that it was evident that electricity was the cause of his death. The police were called at once but made no effort to keep the crowd away from the electric wire or the dead man. The police officer in charge pressed the foreigner to say what he thought about the case. The foreigner refused to say what he *thought but* offered to say what he *knew*. There was no attempt to collect evidence in a careful or orderly way.

"The dead man was the son of another of the servants in the employ of the foreigner and there was a feud between the father and a coolie who had just been discharged for inefficiency. Soon after, word of the affair got to the coolie's friends, they got hold of him and told him that he had better get away or the blame for the crime would be laid to him. He made an attempt to escape from the city about three hours after the affair was discovered. There was no evidence whatever that he had made any earlier attempt to escape. The coolie was seized by the police. The next morning he was brought to view the scene of his supposed crime, his hands being wrapped in cloths, and the other servants said that he had been strung up by the thumbs in order to extort a confession. Then he was taken to the "shen P'an T'ing", the "criminal court" and imprisoned there. The judicial authorities denied all knowledge of the torture and laid the blame to the police. The foreigner did all he could, both through the Commissioner of Foreign Affairs and at the court itself, to get a hearing for the case. So far as can be found out there never was a hearing. If there was, none of the persons first on the scene and none of the experts called in at the time were present. Repeated efforts, through the Commissioner of Foreign Affairs, were made to have the case brought to trial. The friends of the prisoner said that if $200 was furnished the prisoner would be released at once.

"Finally, six months after the affair, the foreigner went to the prison determined to stay there until something should be done. After repeated requests to see the authorities, he was told that the official was not coming that day, but that the man was about to be released. They were asked when and said that it would be before the end of the week. The prisoner was released within a few days".

PRIMITIVE CONDITION IN NORTHERN KIANGSU

"The Chinese courts in the Northern or Sutsien area of Kiangsu are about the same as they have been for 2,000 years. Some changes have been made, but they are mostly changes for the worse. In my experience of more than a dozen years here, beginning before the revolution, I do not recall hearing any intelligent Chinese say that there has been the least improvement in such matters. On the contrary, in recent years, I have heard scores of them lamenting the fact that conditions are worse now than in the days of the Manchu Dynasty. All of them say that official corruption of every kind is more shameless now than ever before, Chinese delegates to various conferences in Peking are glibly telling the world about China's new and wonderful judicial system, but the ordinary magistrates in the interior have never heard of it. We read the most glowing descriptions of China's model jails, but the prisoners rotting to death in the unspeakably filthy dungeons all over China have never seen the new models. In other words, there is not the faintest resemblance between the actual conditions obtaining in the interior of China today and the beautiful fairy stories which the above mentioned Chinese delegates are relating for the benefit of the assembled diplomats from lands beyond the sea. The Chinese who attend the conferences are well educated and highly polished gentlemen, many of them are graduates of leading universities of America and Europe. Of course they make a splendid impression on the visitors, but how many law courts in the interior of China today are administered by gentleman of this type? I have not yet seen one of them in this city.

"As to the actual method of procedure in court, the usual practice is to decide civil cases simply on a financial basis. This has been a matter of course so long that it causes no surprise. Let us remember that every magistrate is supposed to buy his position from the provincial authorities, paying at least thousands of dollars, many times more than his legitimate salary will amount to. In the average yamen all important cases are decided by the magistrate himself, not by a judge. The magistrate must reimburse himself in some way, and one of the most obvious ways is a discreet use of his judicial

powers. The Chinese idea of face makes it easy for a magistrate to take in money. Often two men carry on a lawsuit for years, each one knowing full well that he is spending many times more than he can ever recover in the way of damages, but each determined to make his opponent also waste money, and each willing to spend a large share of his money and property if he can only win a theoretical decision and thus gain face and power in the community. Of course this gain in face means that his other enemies will be afraid of him and will not dare to attack him. I know of a case in which two families have been involved in a lawsuit for one or two years, over the control of a school which has some income from land. Of course this means that whoever controls the funds gets a generous share of them. If they were honestly administered there would be no occasion for a squabble. As the matter now stands, it is probable that each side has spent more money in the yamen than the amount of the school income for some years to come. This illustrates the fact that the main idea in the average Chinese lawsuit is face or revenge rather than the actual collection of damages.

Confession As Conclusive Evidence

"In criminal cases, prisoners are frequently tortured to force them to confess. The old idea, which still largely prevails in this section of country, is that confession is the only evidence which can be considered really conclusive. Of course confession is not forthcoming except by torture. Stories of such procedure are too numerous and too well authenticated to leave room for doubt. I have seen bodies lying on the execution ground, bearing the scars of torture. I have heard of scores, perhaps hundreds, of cases in which torture was employed. Beating on the naked body is the most usual form, but sometimes the prisoners are burned with candles or hot irons, sometimes they are forced to kneel on chains while wooden bars are placed across their legs and men stand on these bars. I have known of cases in which prisoners were tortured by pouring pepper juice into their mouths and noses. The sufferings of the victims are so terrible that prisoners are sometimes willing make any confession which may be demanded, to avoid torture. They say they have no hope of being able to endure the pain without confessing, so they prefer to die before torture instead of after.

"Of course money plays an all important part in criminal cases, as well as elsewhere. A goodly sum of money, wisely used, has saved many a man from torture and death. It is an open secret that many village chiefs in this part of the country are in league with one or more bands of robbers; in fact, it is generally supposed to be very unsafe for a village to be left without any bandit connections at all.

"Jails in the interior of China are of a type which disappeared from western civilization, hundreds, perhaps thousands, of years ago. The ankles, and sometimes the wrists, of prisoners are bound with chains so that they can scarcely move; and at night the necks of the men are chained to a long log of wood lying on the prison floor, so that they cannot rise, or even raise their heads, during the night. if any one moves enough to make any sound with his chains, he is liable to be beaten by the keepers. The filth, stench, vermin, and disease of these jails simply defy the descriptive powers of human language. No wonder that some of the prisoners, after a few months or years of this horrible experience, hardly resemble living human beings. The average foreigner, accustomed to the comforts of civilization, could not expect to live long in those surroundings.

(*Continued on page 87*)

VIEWS ON EXTRATERRITORIALITY

Marshal Sun Chuan-fang

Tupan of Kiangsu and Chekiang Provinces and Military Director of Fukien, Kiangsi and Anhwei.

"It is my desire to convert the area outside the foreign settlements of Shanghai into a model city, the result of which should form the basis for our demand for the abolishing of foreign concessions. Whenever I come to a treaty port I feel thoroughly humiliated, not only because a treaty port is a standing reminder of our loss of sovereignty, but also because whenever we pass from the concessions into Chinese territory we feel that we are crossing into a different world, the former is the upper and the latter is the under-world, for nothing in the Chinese territory can be compared with the Concessions. This is the greatest of our humilitations, much greater, in my opinion, than the loss of sovereignty. In recent years the people of China have gradually acquired a national consciousness and demand the rendition of concessions and the abolition of unequal treaties, but empty-mouthed demands are useless. If we want to have the concessions abolished, we must make the necessary preparations, otherwise even if the Powers handed over the Concessions to us at once, we shall find ourselves utterly unprepared to receive them. One of the objects of establishing the Directorate of the Port of Shanghai and Woosung is to try to accomplish some real results to show our foreign friends and to start our general preparations for the eventual return of the Concessions."

The Chinese Courts And The Administration of Justice In The Interior of China

(*Continued from page 83*)

Chinese Court System are asked to go to districts where enlightenments have been adopted to reform the prisons. It will probably be best not to go into detail regarding this matter here at the present time. It is sure that no change has been made from pre-Republic days. There is no lawyer but the county official and an assistant take charge of all trials. The underlings get no pay except as they squeeze it out of the unfortunate folks who have to see the inside of the yamen. The jail as a Chinese friend expresses it "is no better than hell." All kinds of cruelties are still used to torture people.

"It is interesting to note that my friends here acknowledge that the local situation is thus fierce and there are but two, or at least very few, model prisons in the whole province. The foreigners who live away from the model prison centers would, of course, take what they could get in those places.

"Of course, we do not fear in this place because we have such good standing in the community; in case of trouble no doubt they would strain a point to get justice for us but that is something not heard of in this county among Chinese in relation to Courts.

"The only Russians in this vicinity are the soldiers in the Fengtien army so we have not had a chance to observe the treatment of those whose extrality rights have been taken away.

"There is but one word that expresses conditions in Courts and Yamens and that is ROTTON and as my Chinese friend said before the jails are little hells. The prisoners lie around in filthy places with their legs and arms in chains.

"Your further question regarding the political situation since the Republic is noted. It is generally agreed that life has been less safe since the Republic than before. Of course, the era of banditry these recent years has been worse than before. It was formerly considered safe to travel inland at all times, but these recent years there have been many occasions when one must be exceedingly careful.

"There were certainly never such conditions as pertain right now in Shantung. Never before could those in power make the rounds of every shop and simply hold them up for huge sums of money; when a dinner party ends with demands upon every guest for great contributions and even a slight hesitancy brings a threat of death. The reign of terror now on in this province has not had its parallel in many years.

"The high patriotism manifest in the present fighting is seen when the generals must be bribed to fight with ardor. This man is given $300,000 if he drives the enemy back so many miles and it is not improbable that a part of the amount is spent bribing the enemy to drop back.

"The ordinary soldiers right now pay no attention to the rights of the people but enter every home and take what they want.

"One of the officers asked my banker to arrange for me to transfer certain funds by check to another city. After about $9,000 had been handled the officer brought accusation that the banker friend with whom I have done business for more than twenty years had failed to pay me one $500 amount. Finally at their headquarters my friend was told that he would be allowed to leave only upon promise that he would come direct to me and pay $500. and take a receipt to the officer. Imagine getting justice in such a time or place as this.

"The words of Mr. Strawn to the Tsing Hua students constitute a wonderful utterance. I believe that the constant emphasis upon the unequal treaties, etc., is keeping the eyes of China away from the real trouble and in this way is working real injury to herself.

"In pointing out the real trouble, Mr. Strawn is a truer friend than those who constantly assure China that the troubles are all brought from abroad. I am a strong friend of China but feel that the best service can be rendered only when we point out to China that she must set her own house in order and the outside troubles will automatically take care of themselves."

Statement by Mr. Frank B. Kellogg

(*Continued from page 54*)

"I know that I have, since I became Secretary of State, worked earnestly to carry out the provisions of the treaties and resolutions adopted at the Washington Conference in respect to the holding of the Tariff Conference and the appointment of the Commission on Extraterritoriality. Unfortuntately the conditions in China have not been such as to further her aspirations in these respects. There has been a recurrence of anti-foreign demonstrations such as has not existed since the Boxer Rebellion. The Powers have been compelled to protect their nationals by armed force. I believe the Chinese provisional Government has made an effort to restrain this anti-foreign hostility and disorders. Nevertheless I do not believe that these unfortunate conditions should constitute a reason why the United States and the other Powers should not scrupulously adhere to the pledges they made to China in the Washington Conference to meet her in the spirit of helpfulness with the hope that she may realize her ambitions.

"These are some of the problems which will have to be settled in the near future and I, for one, am willing to face them, now, to meet the representatives of the Chinese Government frankly and discuss the whole subject. But these conventional tariffs and extraterritorial rights and foreign settlements have come about through treaty arrangements with China under which thousands of Americans and other foreigners have taken up their residence and carried on their business within the country. The United States owes to them the duty of adequate protection and the Chinese Government must have a realization of its sovereign obligations according to the laws of all civilized nations.

"In the discussion and settlement of these problems, one of the most difficult questions is whether China now has a stable government capable of carrying out these treaty obligations. I am very sure that the people of the United States do not wish to control, by treaty or otherwise, the internal policies of China, fix its tariffs, or establish and administer courts, but that they look forward to the day when this will not be necessary."

Some Cases from the Interior

(*Continued from page 85*)

"Chinese executions are frequently accompanied by torture or unnecessary cruelty. A few years ago a favorite method was to place the victim in a cage, suspended by his neck, his head protruding from the top of the cage. Sometimes his feet were allowed to reach the bottom of the cage, or placed on a low bench. In this position he might live for days, but the end might be hastened by removing the support from his feet, thus throwing his full weight on his neck. This method of execution is not so popular now as it was a few years ago and I have not seen anyone in a cage for some time. The victims themselves preferred this to beheading, as the former left them with an entire body to go into the next world. A man who is decapitated enters the realms of Hades under a serious handicap, he is at once recognized as a criminal. A robber would rather be shot than beheaded, and shooting is now the usual method of procedure, though beheading is also practiced. Sometimes prisoners are tied to stakes and cut to pieces by slow degrees. The details of this torture are too horrible to print, the unfortunate victim is gradually carved and chopped till death finally comes to his relief. A few years ago, a petty officer in the army was killed while fighting bandits in the country south of this city. The other officers held a memorial service at his funeral, to which many invitations were issued. Before the regular program began, a special attraction was staged. Half a dozen robbers were tied to stakes in a row and were slowly carved to death, to the delight of the assembled multitude.

Bodies Sold By Constables

"The remains of executed criminals in this city, after being left on the execution ground for some hours for the edification of the populace, are carried out and buried in the sand dunes of the old river bed. They are usually buried only a few inches deep and are never placed in coffins unless said coffins are provided by relatives. In former years the bodies were wrapped in scant pieces of coarse matting: but in the present stage of progress, the matting is no longer considered necessary. During the past 14 years, I have seen hundreds and hundreds of robbers' carcases dug out of the sand and eaten by dogs, sometimes the sand dunes are covered by these hungry scavengers. In the past two or three years, the constables in charge of robbers' funerals have developed a brisk trade in the carcases, selling them to the relatives. The usual procedure is to bury sevral in one hole, and watch to see that none are removed without the payment of a suitable fee. If no cash is forthcoming in a few days, the bodies are left to the tender mercies of the dogs and crows.

"The foregoing details are not pleasant to write and I suspect they will not be very pleasant to read, but I have made an honest effort to give you at least a glimpse of conditions actually existing in the Republic of China today, in sad contrast to the Utopian dreams of our Chinese friends in Peking. We heard that the so-called government has issued orders for all Chinese courts and jails to be cleaned up in preparation Ror a report to the Commission on Extraterritoriality. Such orders would be amusing if they were not so pathetic. This undertaking is not to be accomplished in a few days, or a few years. The little experience of Hercules with the Augean Stables was mere child's play compared with the task of cleaning up China's judicial system and the appurtenances thereof."

VIEWS ON EXTRATERRITORIALITY

By S. U. Zau

Representative and Committee member of the Chinese General Chamber of Commerce on Subject of Rendition of Mixed Courts

"The so called Mixed Court in the foreign settlement of Shanghai has its peculiar functions. It was created some sixty years ago for the purpose of hearing petty offences such as the breach of police regulations by Chinese within the settlement. During the year of 1911 when the revolution broke out the Court was placed under the supervision of the Shanghai consular body on the grounds of emergency. The Court should have long ago been handed over to the Chinese authorities as the indefinite holding of it is entirely in violation of the present treaties even which are demonstrated by the national aspiration as having become inapplicable.

In his instruction to the British consul at Shanghai dated September 8, 1892, Sir Frederick Bruce, the British envoy pointed out, "The English concession at Shanghai was neither a transfer nor a lease of the land in question to the British Crown.....the land so acquired remains Chinese territory.....it is my duty to remind you that the Chinese government has never formally abanded its rights over its own subjects, nor has Her Majesty's government ever claimed or expressed any desire to exercise a protectorate over them.....I do not understand what interest Her Majesty's government has in lending itself to a system which is unjustifiable in principle, which would be attended with endless embarassment and responsibility, and which the Chinese government would never submit to willingly."

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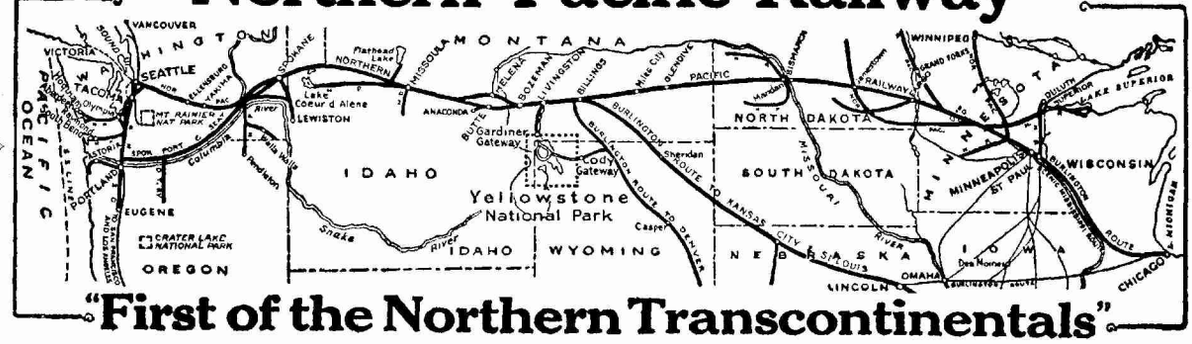

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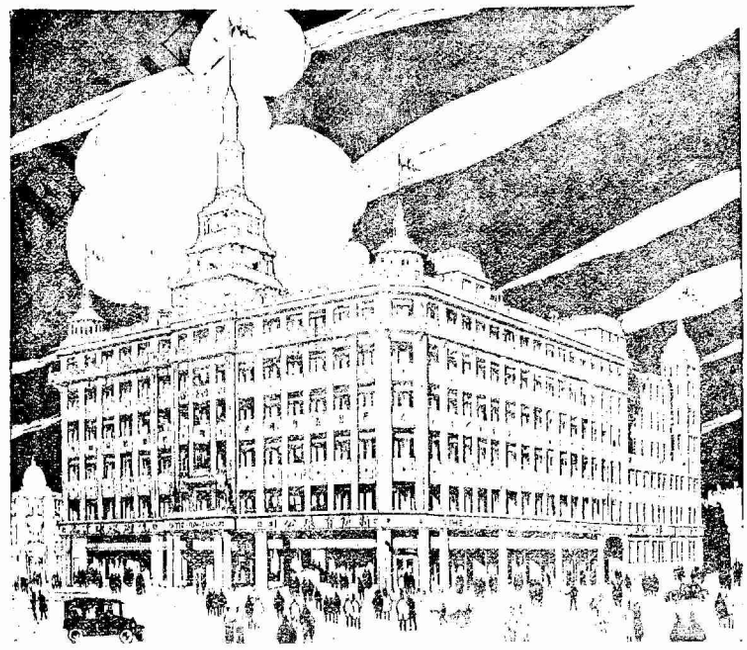

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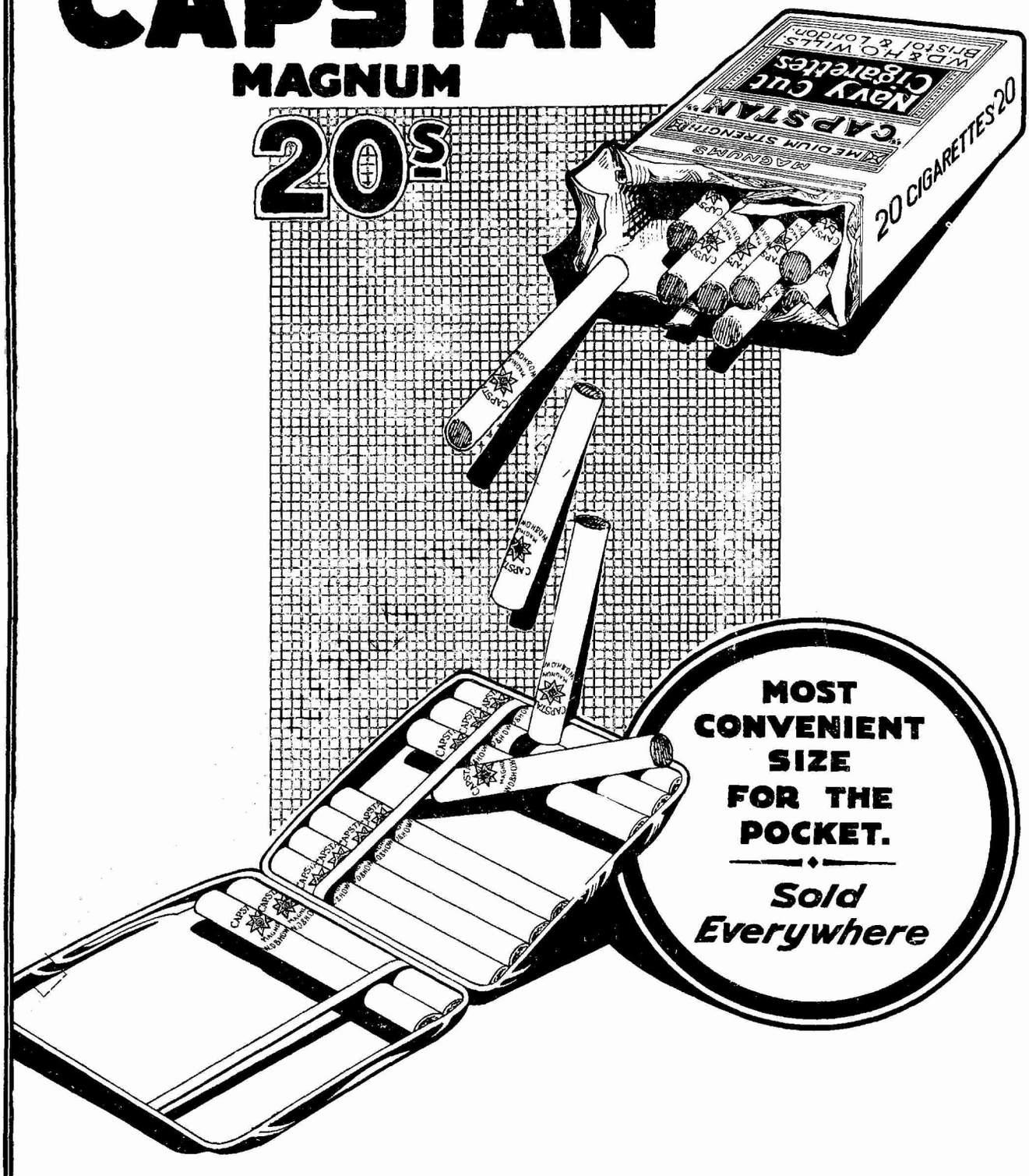

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